

**LOCATION:**

El Monte City Hall – East  
City Council Chambers  
11333 Valley Boulevard  
El Monte, CA 91731



**DATE AND TIME:**

Thursday,  
March 19, 2020  
6:00 p.m.

# **SPECIAL MEETING AGENDA**

OF THE

## **CITY COUNCIL OF THE CITY OF EL MONTE**

MEETING JOINTLY AND REGULARLY WITH THE EL MONTE HOUSING AUTHORITY; EL MONTE PUBLIC FINANCING AUTHORITY; EL MONTE WATER AUTHORITY; EL MONTE PARKING AUTHORITY; SUCCESSOR AGENCY TO THE FORMER EL MONTE COMMUNITY REDEVELOPMENT AGENCY; HOUSING SUCCESSOR AGENCY; AND, FROM TIME TO TIME, SUCH OTHER BODIES OF THE CITY WHOSE MEMBERSHIP IS COMPOSED EXCLUSIVELY OF THE MEMBERSHIP OF THE CITY COUNCIL

---

**COUNCILMEMBERS/AUTHORITY MEMBERS:**

*Andre Quintero, Mayor*

*♦ Maria Morales, Mayor Pro Tem ♦ Jessica Ancona, Councilmember*

*♦ Victoria Martinez Muela, Councilmember ♦ Jerry G. Velasco, Councilmember*

---

**1. CALL TO ORDER OF SPECIAL MEETING:**

**2. ROLL CALL FOR CITY COUNCIL AND AUTHORITY BODIES:**

Andre Quintero, Mayor/Chair

Maria Morales, Mayor Pro Tem/Authority Member

Jessica Ancona, Councilmember/Authority Member

Victoria Martinez Muela, Councilmember/Authority Member

Jerry G. Velasco, Councilmember/Authority Member

**3. APPROVAL OF AGENDA:**

**Special City Council Meeting of March 19, 2020**

**4. INVOCATION:**

**5. FLAG SALUTE:**

**6. CLOSED SESSION:**

**6.1 Closed Session pursuant to Government Code Section 54956.9(d)(1) Conference with Legal Counsel--Existing Litigation regarding the following related matter: Greater SGV Safe Community Foundation v. City of El Monte, Los Angeles Superior Court Case No. 19STCP05662.**

**7. SPECIAL MEETING PUBLIC COMMENT REGARDING AGENDIZED MATTERS ONLY:**

As provided under **Government Code Section 54954.3**, this time has been set aside for persons in the audience to provide comment or make inquiries on matters appearing on this **Special Meeting agenda only**. Although no person is required to provide their name and address as a condition to attending a meeting, persons who wish to address the body are asked to state their name and address. Each speaker will be limited to three (3) continuous minutes. Speakers may not lend any portion of their speaking time to other persons or borrow additional time from other persons. All comments or queries presented by a speaker shall be addressed to the body as a whole and not to any specific member thereof. No questions shall be posed to any member of the body except through the presiding official of the meeting, members of the body are under no obligation to respond to questions posed by speakers but may provide brief clarifying responses to any comment made or questions posed. The body may not engage in any sort of prolonged discussion or deliberation with any speaker or group of speakers on matters that are not listed on this Special Meeting agenda.

*Enforcement of Decorum:* The Chief of Police of the City of El Monte, or such member, or members of the Police Department as the Chief of Police may designate, shall serve as the Sergeant-at-Arms of the meeting. The Sergeant-at-Arms shall carry out all orders and instructions given by the presiding official for the purpose of maintaining order and decorum at the meeting. While members of the public are free to level criticism of policies and the action(s) or proposed action(s) of the body or its members, members of the public may not engage in behavior that is disruptive to the orderly conduct of the proceedings, including, but not limited to, conduct that prevents other members of the public from being heard when it is their opportunity to speak or which prevents members of the audience from hearing or seeing the proceedings.

Members of the public may not threaten any person with physical harm or act in a manner that may reasonably be interpreted as an imminent threat of physical harm. All persons attending the meeting must adhere to policies barring harassment based upon a person's race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, gender, sexual orientation or age.



**Special City Council Meeting of March 19, 2020**

**8. PUBLIC HEARINGS:**

**8.1 A Public Hearing to Consider and Approve an Urgency Ordinance Establishing a 45-Day Moratorium on Residential Evictions Due to Non-Payment of Rent Caused by the COVID-19 Pandemic.**

RECOMMENDATION OF BUSINESS ITEM UNDER CONSIDERATION:

It is recommended that the City Council:

1. Open the public hearing;
2. Receive a brief overview from staff and pose questions;
3. Receive public comment;
4. Close the public comment portion of the public hearing;
5. Pose closing questions to staff;
6. Deliberate and then close the public hearing; and
7. By 4/5 vote of the City Council, approve Urgency Ordinance establishing a moratorium of residential evictions caused by non-payment of rent due to hardship associated with the COVID-19 pandemic as long as the City of El Monte is in a declared state of emergency.

Total Cost: N/A

Account No: N/A

Is the cost of this item budgeted? N/A

Urgency Ordinance No. 2971

**9. REGULAR AGENDA:**

**9.1 Consideration and Approval of the Purchase and Sale Agreement (PSA) and Joint Escrow Instructions Between the City of El Monte and Xue Chen of 12159 Cherrylee Drive.**

RECOMMENDATION OF BUSINESS ITEM UNDER CONSIDERATION:

It is recommended that the City Council:

1. Receive a presentation from City staff regarding the proposed Purchase and Sale Agreement (PSA) and Joint Escrow Instructions between the City of El Monte and Xue Chen of 12159 Cherrylee Drive;
2. Adopt the Resolution approving the PSA by and between the City of El Monte and Xue Chen; and
3. Authorize the City Manager and City Attorney to make any non-substantive minor modifications and execute the PSA.

Total Cost: \$1,500,000

Account No: Quimby and EB5 Funds

Is the cost of this item budgeted? No

Resolution No. 10107



**Special City Council Meeting of March 19, 2020**

**9.2 Approval of a Side Letter #3 to the 2018-2020 MOU with the El Monte Police Officers' Association Covering the Period of January 1, 2020 through December 31, 2022**

RECOMMENDATION OF BUSINESS ITEM UNDER CONSIDERATION:

It is recommended that the City Council:

1. Approve Side Letter #3 with the El Monte Police officers' Association (EMPOA), covering the period of January 1, 2020 through December 31, 2022.

Total Cost: (\$70,000)

Account No: Various

Is the cost of this item budgeted? N/A

**10. CITY MANAGER'S AGENDA:**

**10.1 Discussion Regarding Emergency Action Plan.**

**10.2 Discussion Regarding Emergency Response Fund.**

**10.3 Discussion Regarding Emergency Reimbursement Tracking.**

**10.4 Discussion Regarding Small Business Support Center.**



***Special City Council Meeting of March 19, 2020***

**11. COUNCIL COMMUNICATIONS/REPORTS:**

**11A. Mayor Quintero**

**11B. Mayor Pro Tem Morales**

**11C. Councilwoman Ancona**

**11D. Councilwoman Martinez Muela**

**11E. Councilman Velasco**



**Special City Council Meeting of March 19, 2020**

**12. ADJOURNMENT:**

The next Regular Meeting of the City Council will be held on **April 7, 2020** at 6:00 p.m. This Agenda will be posted on the City's website, [www.ci.el-monte.ca.us](http://www.ci.el-monte.ca.us), and physically posted no less than 72 hours prior to the start of the subject regular meeting. Although it is the City's practice and desire to electronically post a copy of this Agenda along with supporting material as part of its website posting, the size or formatting of certain supporting materials may render their website posting infeasible. Nevertheless, all supporting materials related to any item on this Agenda, that is made available to the members of the council may be inspected by members of the public at the City Clerk's Office located at 11333 Valley Boulevard, El Monte, Monday through Thursday, 7:00 am – 5:30 pm. For more information, please call the City Clerk's Office at 626-580-2016.

All public meetings and events sponsored or conducted by the City of El Monte are held in sites accessible to persons with disabilities. Requests for accommodations may be made by calling the office of the City Clerk at (626) 580-2016 at least three (3) working days prior to the event, if possible. This Agenda and copies of documents distributed at the meeting are available in alternative formats upon request.

*Posted: March 18, 2020 at 6:55 PM*





# CITY OF EL MONTE

CITY ATTORNEY'S OFFICE  
CITY COUNCIL AGENDA REPORT

CITY COUNCIL SPECIAL MEETING OF MARCH 19, 2020

March 16, 2020

The Honorable Mayor and City Council  
City of El Monte  
11333 Valley Boulevard  
El Monte, CA 91731

Dear Mayor and City Council:

## **A PUBLIC HEARING TO CONSIDER AND APPROVE AN URGENCY ORDINANCE ESTABLISHING A 45-DAY MORATORIUM ON RESIDENTIAL EVICTIONS DUE TO NON-PAYMENT OF RENT CAUSED BY THE COVID-19 PANDEMIC**

### **IT IS RECOMMENDED THAT THE CITY COUNCIL:**

1. Open the public hearing.
2. Receive a brief overview from staff and pose questions.
3. Receive public comment.
4. Close the public comment portion of the public hearing.
5. Pose closing questions to staff.
6. Deliberate and then close the public hearing.
7. By 4/5 vote of the City Council, approve Urgency Ordinance establishing a 45-day moratorium of residential evictions caused by non-payment of rent due to hardship associated with the COVID-19 pandemic.

### **BACKGROUND**

Given the severe and unprecedented nature of the COVID-19 pandemic outbreak federal, State and local authorities have declared emergency conditions and protocols to halt the spread of the virus. At its meeting of March 17, 2020, the City of El Monte ("City") will declare a local emergency to implement measures recommended by State and federal authorities. Concurrent with this effort the City proposed the attached Urgency Ordinance ("Ordinance") intended to provide relief to residents at risk of eviction due to non-payment of rent caused by job layoffs or reduction in work due the economic slowdown that has accompanied the pandemic.

### **PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION**

The attached Ordinance establishes a 45-day moratorium on evictions for Affected Tenants as defined under the Ordinance, where it can be established that the

HONORABLE MAYOR AND CITY COUNCIL  
MARCH 18, 2020  
PAGE 2

nonpayment of rent is attributable to the loss of employment or reduction in employment caused by the pandemic. The Ordinance is modelled on action recently taken by the City of San Jose, California. It is the understanding of staff that the Cities of Pasadena and Long Beach will soon be considering similar Urgency Ordinances.

### **FISCAL IMPACT/FINANCING**

The Ordinance will require some measure of enforcement effort of the part of the City and the cost of such effort is presently unknown.

### **RECOMMENDATOIN**

It is recommended that the City Council by 4/5 vote approve the attached Urgency Ordinance approving a 45-day moratorium on evictions attributable to the COVID-19 pandemic.

HONORABLE MAYOR AND CITY COUNCIL  
MARCH 18, 2020  
PAGE 3

Respectfully submitted,

ALMA K. MARTINEZ  
City Manager

BRUCE FOLTZ  
Finance Director

RICHARD PADILLA  
Assistant City Attorney

Attachment 1: Urgency Ordinance.

DATE: March 19, 2020
PRESENTED TO EL MONTE CITY COUNCIL
<input type="checkbox"/> APPROVED
<input type="checkbox"/> DENIED
<input type="checkbox"/> PULLED
<input type="checkbox"/> RECEIVE AND FILE
<input type="checkbox"/> CONTINUED
<input type="checkbox"/> REFERRED TO
CHIEF DEPUTY CITY CLERK

**URGENCY ORDINANCE NO. \_\_\_\_\_**

**AN UNCODIFIED URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF EL MONTE ENACTING A TEMPORARY MORATORIUM ON EVICTIONS DUE TO THE NONPAYMENT OF RENT FOR RESIDENTIAL TENANTS WHERE THE FAILURE TO PAY RENT RESULTS FROM INCOME LOSS RESULTING FROM THE NOVEL CORONAVIRUS (COVID-19)**

WHEREAS, in late December 2019, several cases of unusual pneumonia began to emerge in the Hubei province of China. On January 7, 2020, a novel coronavirus now known as COVID-19 was identified as the likely source of the illness; and

WHEREAS, on January 30, 2020, the World Health Organization (“WHO”) declared COVID-19 a Public Health Emergency of International Concern. On January 31, 2020, the United States Secretary of Health and Human Services declared a Public Health Emergency; and

WHEREAS, on March 4, 2020, California Governor Gavin Newsom declared a State of Emergency to make additional resources available, formalize emergency actions already underway across multiple state agencies and departments, and help the state prepare for a broader spread of COVID-19; and

WHEREAS, as of March 15, 2020, the Los Angeles Department of Public Health (the “County”) has identified 69 cases of COVID-19 in Los Angeles County, 10 of which are likely due to community transmission; 5 of which have resulted in hospitalization and one of which has resulted in death; and

WHEREAS, the COVID-19 pandemic has resulted in more businesses moving towards working from home meaning less of the workforce will be patronizing restaurants and other retail establishments that employ hourly workers, which is expected to lead to hourly cutbacks and potentially employee terminations; and

WHEREAS, this Urgency Ordinance enacts a temporary moratorium intended to promote stability and fairness within the residential rental market in the City during the COVID-19 pandemic outbreak, and to prevent avoidable homelessness thereby serving the public peace, health, safety, and public welfare and to enable tenants in the City whose income and ability to work is affected due to COVID-19 to remain in their homes; and

WHEREAS, displacement through eviction destabilizes the living situation of tenants and impacts the health of the City’s residents by uprooting children from schools, disrupting the social ties and networks that are integral to citizens’ welfare and the stability of communities within the City; and

WHEREAS, displacement through eviction creates undue hardship for tenants through additional relocation costs, stress and anxiety, and the threat of homelessness due to the lack of alternative housing; and

WHEREAS, during the COVID-19 pandemic outbreak, affected tenants who have lost income due to impact on the economy or their employment may be at risk of homelessness if they are evicted for non-payment as they will have little or no income and thus be unable to secure other housing if evicted; and

WHEREAS, Government Code Sections 36934 and 36937(b) authorize the City to adopt an Urgency Ordinance for the immediate preservation of the public peace, health and safety, provided that such Ordinance is passed by a four-fifths vote of the City Council.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF EL MONTE, CALIFORNIA DOES HEREBY ORDAIN AS FOLLOWS:**

**SECTION 1.** The recitals above are true and correct and incorporated herein by reference.

**SECTION 2. Title.** This Urgency Ordinance shall be known as the “COVID-19 Eviction Moratorium Ordinance.”

**SECTION 3. Urgency Findings.** The purposes of this Urgency Ordinance is to promote housing stability during the COVID-19 pandemic and to prevent avoidable homelessness. This Urgency Ordinance is necessary for the immediate preservation of the public peace, health and safety because the COVID-19 pandemic has the potential for destabilizing the residential rental market for all of the reasons described herein. This Urgency Ordinance is intended to enable tenants in the City whose employment and income have been affected by the COVID-19 pandemic to be temporarily exempt from eviction for non-payment of rent and to reduce the risk that these events will lead to anxiety, stress and potential homelessness for the affected City residents and their communities thereby serving the public peace, health, safety, and public welfare. The temporary moratorium on evictions for non-payment imposed by this Urgency Ordinance is created pursuant to the City's general police powers to protect the health, safety, and welfare of its residents and exists in addition to any rights and obligations under state and federal law.

#### **SECTION 4. Definitions**

- A. “Affected Tenant” shall mean a Tenant or Tenant Household, Mobilehome Resident, or Mobilehome Owner, who has, as a result of COVID-19 pandemic, or declaration of the Los Angeles County Department of Public Health, or other local, State or Federal Authority, suffered a substantial loss in income through their employment as a result of any of the following: 1) job loss; 2) a reduction of compensated hours of work; 3) employer’s business closure; 4) missing work due to a minor child’s school closure; or 5) other similarly-caused reason resulting in a loss of income due to COVID-19.

- B. "Landlord" means an owner, lessor, or sublessor who receives or is entitled to receive rent for the use and occupancy of any Rental Unit, Mobilehome or Mobilehome lot, and the agent, representative, or successor of any of the foregoing.
- C. "Mobilehome" means a structure transportable in one or more sections, designed and equipped to contain not more than one dwelling unit, to be used with or without a foundation system.
- D. "Mobilehome Park" means any area or tract of land where two or more mobilehome lots are rented or leased, or held out for rent or lease, to accommodate mobilehomes used for human habitation for permanent, as opposed to transient, occupancy.
- E. "Mobilehome Owner" means a person who owns a Mobilehome and rents or leases the Mobilehome Park lot on which the Mobilehome is located.
- F. "Mobilehome Resident" means a person who rents a mobilehome from a Mobilehome Owner.
- G. "Notice of Termination" shall mean the notice informing a Tenant Household or Mobilehome Resident of the termination of its tenancy in accordance with California Civil Code Section 1946.1 and California Code of Civil Procedure Section 1161, as amended.
- H. "Rental Unit" means a structure or the part of a structure that is used as a home, residence, or sleeping place by one person who maintains a household or by two or more persons who maintain a common household, and which household pays Rent for the use and occupancy for periods in excess of seven days whether or not the residential use is a conforming use permitted under the El Monte Municipal Code.
- I. "Tenant" means a residential tenant, subtenant, lessee, sublessee, or any other person entitled by written or oral rental agreement, or by sufferance, to use or occupancy of a Rental Unit.
- J. "Tenant Household" means one or more Tenant(s) who occupy any individual Rental Unit, including each dependent of any Tenant whose primary residence is the Rental Unit.

**SECTION 5.** This Ordinance applies to Affected Tenants in any Rental Unit and Landlords of Affected Tenants. Only Sections 1 through 6, Subsection A.1. of Section 7 and Section 8, below, apply to Mobilehome Tenants and Mobilehome Owners who are Affected Tenants and Landlords of Mobilehomes and Mobilehome lots.

**SECTION 6. Moratorium on Nonpayment and No Cause Terminations.**

- A. During the term of this Ordinance, a Landlord may not terminate the tenancy of an Affected Tenant unless the Landlord can demonstrate that the Landlord

served a Notice of Termination to the Affected Tenant and that the termination qualifies as a Just Cause Termination in compliance with Section 7, below.

- B. The Notice of Termination provided to Affected Tenants must contain the reason for the termination of tenancy in accordance with Section 7, below.

## **SECTION 7. Just Cause Termination**

- A. If a Landlord can show any of the following circumstances with respect to a termination of tenancy, the termination will qualify as a "Just Cause Termination":

1. Nonpayment of Rent. After being provided with written notice of the identity and mailing address of the Landlord, notice of the Moratorium, and the amount of rent due, the Tenant:
  - i. Has failed to pay rent to which the Landlord is legally entitled pursuant to any written or oral rental agreement and under the provisions of state or local law, unless the Tenant is an Affected Tenant, as defined above, who is unable to pay rent as a result of COVID-19 pandemic, declaration of the Los Angeles County Department of Public Health, or other local, State or Federal Authority related to the COVID-19 pandemic, and has provided their Landlord with documentation or other objectively verifiable proof of the same, or has withheld rent pursuant to applicable law; and
  - ii. Said failure to pay has continued after service on the Tenant of a written notice setting forth the amount of rent then due and requiring it to be paid, within a period, specified in the notice, of not less than three (3) days.
2. Material or Habitual Violation of the Tenancy.
  - a. The Tenant has failed to cure a violation of any material term of the rental agreement within a reasonable time after receiving written notice from the Landlord of the alleged violation or has committed Habitual violations of the rental agreement, but only if either clause (i) or (ii) applies:
    - i. The demand to cure is based on terms that are legal and have been accepted in writing by the Tenant or made part of the rental agreement; or
    - ii. The demand to cure is based on terms that were accepted by the Tenant or made part of the rental agreement after the initial creation of the tenancy, so long as the Landlord first notified the Tenant in writing that he or she need not accept such terms or agree to their being made part of the rental agreement.

- b. The following potential violations of a tenancy can never be considered material or Habitual violations:
  - i. An obligation to surrender possession on proper notice as required by law.
  - ii. An obligation to limit occupancy when the additional Tenant(s) who join the Tenant Household are any of the following: a dependent child or foster child, a minor in the Tenant's care, the spouse, domestic partner, or parent (which terms may be further defined in the regulations adopted by the City Manager), of a Tenant; so long as the total number of adult Tenants in the unit does not exceed the greater of either the maximum number of individuals authorized in the rental agreement or two adults per bedroom, or in the case of a studio unit, two adults. The Landlord has the right to approve or disapprove a prospective additional Tenant who is not a dependent child or foster child, a minor in the Tenant's care, spouse, domestic partner, or parent of a Tenant, provided that the approval is not unreasonably withheld.
- 3. Substantial Damage to the Rental Unit. The Tenant, after written notice to cease and a reasonable time to cure, causes substantial damage to the Rental Unit, or common area of the structure or rental complex containing the Rental Unit beyond normal wear and tear, and refuses, after written notice, to pay the reasonable costs of repairing such damage and to cease engaging in the conduct identified in the notice to cease.
- 4. Refusal to Agree to a Like or New Rental Agreement. Upon expiration of a prior rental agreement the Tenant has refused to agree to a new rental agreement that contains provisions that are substantially identical to the prior rental agreement as may be further described in the regulations adopted by the City Manager, and that complies with local, state and federal laws.
- 5. Nuisance Behavior. The Tenant, after written notice to cease, continues to be so disorderly or to cause such a nuisance as to destroy the peace, quiet, comfort, or safety of the Landlord or other Tenants of the structure or rental complex containing the Rental Unit. Such nuisance or disorderly conduct includes violations of state and federal criminal law that destroy the peace, quiet, comfort, or safety of the Landlord or other Tenants of the structure or rental complex containing the Rental Unit, and may be further defined in the regulations adopted by the City Manager.
- 6. Refusing Access to the Unit. The Tenant, after written notice to cease and a reasonable time to cure, continues to refuse the Landlord reasonable access to the Rental Unit, so long as the Landlord is not abusing the right of access under California Civil Code section 1954, as amended.

7. Unapproved Holdover Subtenant. The Tenant holding over at the end of the term of the oral or written rental agreement is a subtenant who was not approved by the Landlord.
8. Substantial Rehabilitation of the Unit. The Landlord after having obtained all necessary permits from the City, seeks in good faith to undertake substantial repairs which are necessary to bring the property into compliance with applicable codes and laws affecting the health and safety of Tenants of the building, provided that:
  - a. The repairs costs not less than the product of ten (10) times the amount of the monthly rent times the number of Rental Units upon which such work is performed. For purposes of this subsection, the monthly rent for each Rental Unit shall be the average of the preceding twelve-month period; and
  - b. The repairs necessitate the relocation of the Tenant Household because the work will render the Rental Unit uninhabitable for a period of not less than thirty (30) calendar days; and
  - c. The Landlord gives advance notice to the Tenant of the ability to reoccupy the unit upon completion of the repairs at the same rent charged to the Tenant before the Tenant vacated the unit or, if requested by Tenant, the right of first refusal to any comparable vacant Rental Unit which has been offered at comparable rent owned by the Landlord; and
  - d. In the event the Landlord files a petition under the Apartment Rent Ordinance within six (6) months following the completion of the work, the Tenant shall be party to such proceeding as if he or she were still in possession, unless the Landlord shall submit with such application a written waiver by the Tenant of his or her right to reoccupy the premises pursuant to this subsection; and
  - e. The Landlord shall have provided relocation assistance as may be required by the El Monte Municipal Code or applicable state law.
9. Ellis Act Removal. The Landlord seeks in good faith to recover possession of the Rental Unit to remove the building in which the Rental Unit is located permanently from the residential rental market under the Ellis Act and, having complied in full with the Ellis Act and any related ordinance of the City, including the provision of relocation assistance as may be required by the El Monte Municipal Code or applicable state law.
10. Owner Move-In. The Owner seeks in good faith, honest intent, and without ulterior motive to recover possession for: (a) the Owner's own use and occupancy as the Owner's principal residence for a period of at least thirty-six (36) consecutive months commencing within three months of vacancy; or (b) the principal residence of the Owner's spouse, domestic partner,

parent(s), child or children, brother(s), or sister(s) (each an "authorized family member") for a period of at least thirty-six (36) consecutive months and commencing within three months of vacancy, so long as the Rental Unit for the Owner's authorized family member is located in the same building as the Owner's principal residence and no other unit in the building is vacant. It shall be a rebuttable presumption that the Owner has acted in bad faith if the Owner or the Owner's qualified relative for whom the Tenant was evicted does not move into the Rental Unit within three months from the date of the Tenant's surrender of possession of the premises or occupy said unit as his/her principal residence for a period of at least thirty-six (36) consecutive months. The Owner shall have provided relocation assistance as may be required by the El Monte Municipal Code or applicable state law.

11. Order to Vacate. The Landlord seeks in good faith to recover possession of the Rental Unit in order to comply with a court or governmental agency's order to vacate, order to comply, order to abate, or any other City enforcement action or order that necessitates the vacating of the building in which the Rental Unit is located as a result of a violation of the El Monte Municipal Code or any other provision of law, and provides a notice of the right to reoccupy. The Landlord shall have provided relocation assistance as may be required by the El Monte Municipal Code or applicable state law.

12. Vacation of Unpermitted Unit. The Landlord seeks in good faith to recover possession of an Unpermitted Unit in order to end the unpermitted use. The Landlord shall have provided relocation assistance as may be required by the El Monte Municipal Code or applicable state law.

13. Criminal Activity.

a. The Tenant Household, after receiving a written notice to cure (which notice shall include the return provisions listed in subsection d below) by removing the Violating Tenant (as defined below) from the household, and, where necessary, amending the lease to remove the Violating Tenant's name, fails to do so within a reasonable time, by one of the following methods as further described in the regulations:

i. Filing a restraining order or providing evidence to the Landlord of similar steps being taken to remove the Violating Tenant from the household.

ii. Removing the Violating Tenant from the household and providing written notice to the landlord that the Violating Tenant has been removed.

b. For purposes of this subsection 13, a "Violating Tenant" shall mean an adult Tenant that is indicted by a grand jury or held to answer pursuant to Penal Code Section 872, as amended, for a serious felony as

defined by Penal Code Section 1192.7(c), as amended, or a violent felony as defined by Penal Code Section 667.5(c), as amended, which occurred during the tenancy and within 1,000 feet of the premises on which the Rental Unit is located. The term "premises" shall mean "Lot", as defined under the El Monte Municipal Code.

- c. The past criminal history of a Tenant shall not be a factor in determining whether the Tenant is a Violating Tenant.
- d. If a Violating Tenant, as defined above, is acquitted from the charges or the charges are dismissed or reduced, he or she may return to the Rental Unit as a Tenant, so long as: 1) the Tenant Household still resides in the Rental Unit; and 2) the Tenant Household consents to the Violating Tenant's return.

#### B. Relocation Assistance.

- 1. Tenants who receive a Notice of Termination that relies on subsections A.8 or A.10 above as the just cause rationale to terminate the tenancy must receive, and the Landlord must provide relocation assistance as may be required by the El Monte Municipal Code or applicable State law. The relocation assistance must be provided to the Tenant Household concurrent with delivery of the Notice of Termination to the Tenant Household.
  - a. Relocation Assistance. An amount equal to the Base Assistance as may be required by the El Monte Municipal Code or applicable state law.
  - b. Refund of Security Deposit. Owner must refund to the Tenant Household any security deposit paid by the Tenant Household, provided, however, that the Owner may withhold any properly itemized deductions from the security deposit pursuant to California Civil Code section 1950.5, as amended.
- 2. Tenants who receive a Notice of Termination that relies on subsection A.9 above as the just cause rationale to terminate the tenancy must have received, and the Landlord must have provided, all applicable Relocation Assistance as may be required by the El Monte Municipal Code or applicable State law.

### **SECTION 8. Affirmative Defense to Eviction; Penalties and Remedies**

- A. Affirmative Defense. Each Landlord that seeks to terminate a tenancy of an Affected Tenant must comply with this Ordinance. Non-compliance with any applicable component of this Ordinance shall constitute an affirmative defense for an Affected Tenant against any unlawful detainer action under California Code of Civil Procedure section 1161, as amended.

To assert this defense, an Affected Tenant shall have provided their Landlord with written documentation or other objectively verifiable information establishing that the Affected Tenant has, as a result of the novel coronavirus (COVID-19) pandemic or declaration of the Los Angeles County Department of Public Health, or other State or Federal Authority, suffered substantial loss of income caused by any of the following: 1) job loss; 2) a reduction of compensated hours of work; 3) work closure; 4) missing work due to a minor child's school closure; or 5) other similarly-caused reason resulting in a loss of income due to COVID-19. The following documents shall create a rebuttable presumption that the Affected Tenant has met the documentation requirement set forth above, however, they are not the exclusive form of documentation demonstrating impacts to income due to COVID-19:

1. Letter from employer citing COVID-19 as a reason for reduced work hours or termination;
2. Employer paycheck stubs;
3. Notification from a school declaring a school closure related to COVID-19.

**B. Civil Remedies.**

1. Any Landlord that fail(s) to comply with this Ordinance may be subject to civil proceedings for displacement of Affected Tenant(s) initiated by the City or the Affected Tenant Household for actual and exemplary damages.
2. Whoever is found to have violated this Ordinance shall be subject to appropriate injunctive relief and shall be liable for damages, costs and reasonable attorneys' fees.
3. Treble damages shall be awarded for a Landlord's willful failure to comply with the obligations established under this Ordinance.
4. Nothing herein shall be deemed to interfere with the right of a Landlord to file an action against a Tenant or non-Tenant third party for the damage done to said Landlord's property. Nothing herein is intended to limit the damages recoverable by any party through a private action.

**SECTION 9. Environmental.** This Urgency Ordinance is exempt from the requirements of the California Environmental Quality Act ("CEQA") pursuant to State CEQA Guidelines, as it is not a "project" and has no potential to result in a direct or reasonably foreseeable indirect physical change to the environment. (Cal. Code Regs., tit.14, § 15378, subd. (a).) Further, this Urgency Ordinance is exempt from CEQA as there is no possibility that it or its implementation would have a significant negative effect on the environment. (Cal. Code Regs., tit.14, § 15061, subd. (b)(3).)

**SECTION 10. Inconsistent Provisions.** Any provision of the El Monte Municipal Code or appendices thereto inconsistent with the provisions of this Urgency Ordinance, to the extent of such inconsistencies and no further, is hereby repealed or modified to

the extent necessary to implement the provisions of this Urgency Ordinance.

**SECTION 11. Severability.** If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Urgency Ordinance, or any part thereof is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Urgency Ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsection, subdivision, paragraph, sentence, clause or phrase would be subsequently declared invalid or unconstitutional.

**SECTION 12. Construction.** The City Council intends this Urgency Ordinance to supplement, not to duplicate or contradict, applicable state and federal law and this Urgency Ordinance shall be construed in light of that intent. To the extent the provisions of the El Monte Municipal Code as amended by this Urgency Ordinance are substantially the same as the provisions of that Code as it read prior to the adoption of this Urgency Ordinance, those amended provisions shall be construed as continuations of the earlier provisions and not as new enactments.

**SECTION 13. Publication and Effective Date.** This Urgency Ordinance is enacted pursuant to the authority conferred upon the City Council by Government Code Sections 36934 and 36937 and shall be in full force and effect upon its adoption by a four-fifths (4/5) vote of the City Council. The City Clerk shall cause this Urgency Ordinance to be published once in a newspaper of general circulation within fifteen (15) days after its adoption. This ordinance and the moratorium established hereunder shall remain in effect for a period of forty five (45) calendar days from the date of approval unless earlier terminated or extended by the City Council.

PASSED, APPROVED AND ADOPTED by the City Council of the City of El Monte at a special meeting on this 19<sup>th</sup> day of March, 2020.

---

André Quintero  
Mayor of the City of El Monte

ATTEST:

---

Catherine A. Eredia  
City Clerk of the City of El Monte

STATE OF CALIFORNIA )  
COUNTY OF LOS ANGELES ) SS:  
CITY OF EL MONTE )

I, Catherine A. Eredia, City Clerk of the City of El Monte, hereby certify that the foregoing Urgency Ordinance No. \_\_\_\_\_ was passed and adopted by the City Council of the City of El Monte, signed by the Mayor and attested by the City Clerk at a special meeting of said Council held on the 19<sup>th</sup> day of March, 2020 and that said Urgency Ordinance was adopted by the following vote, to-wit:

AYES:

NOES:

ABSTAIN:

ABSENT:

---

Catherine A. Eredia  
City Clerk of the City of El Monte



**CITY OF EL MONTE**  
*COMMUNITY AND ECONOMIC DEVELOPMENT DEPARTMENT*  
CITY COUNCIL AGENDA REPORT

SPECIAL CITY COUNCIL MEETING OF MARCH 19, 2020

March 18, 2020

The Honorable Mayor and City Council  
City of El Monte  
11333 Valley Boulevard  
El Monte, CA 91731

Dear Mayor and City Council:

**CONSIDERATION AND APPROVAL OF THE PURCHASE AND SALE AGREEMENT (PSA) AND JOINT ESCROW INSTRUCTIONS BETWEEN THE CITY OF EL MONTE AND XUE CHEN OF 12159 CHERRYLEE DRIVE**

**IT IS RECOMMENDED THAT THE CITY COUNCIL:**

1. Receive a presentation from City staff regarding the proposed Purchase and Sale Agreement (PSA) and Joint Escrow Instructions (Attachment 1) between the City of El Monte and Xue Chen of 12159 Cherrylee Drive; and
2. Adopt the Resolution (Attachment 2) approving the PSA by and between the City of El Monte and Xue Chen; and
3. Authorize the City Manager and City Attorney to make any non-substantive minor modifications and execute the PSA.

**BACKGROUND**

The subject property located at 12159 Cherrylee Drive (the "Site") measures 71,874 square feet (1.65 acres) and is located in the Norwood/Cherrylee neighborhood. The 2011 Vision El Monte General Plan Community Design Element describes the Norwood/Cherrylee neighborhood as a mix of single-family homes anchored by Lambert Park and contains the Rurban Homesteads and Wye Street, built during the 1920s as part of an experimental federal housing program. With its rural ambience, the area is distinguished by its equestrian and agricultural heritage.

The Site is zoned R1-C (One-family Dwelling) within the Rurban Homesteads Overlay District ("RHOD"). The RHOD is located in the northeast portion of the City and was

first established in 2008. The RHOD was established to ensure that new residential development is compatible with the existing built environmental and surrounding neighborhood in regards to lot size, height and architectural design.

Over the past several years, there has been new development interest in the RHOD. As a result, the City Council adopted a Moratorium on June 21, 2016 for the RHOD prohibiting certain development applications including new two-story dwellings, second-story additions, new subdivisions, and new dwellings that would result in more than one (1) dwelling on a property. During the Moratorium, City staff worked with an Advisory Committee consisting of residents in the RHOD area, and conducted community workshops and study sessions with the Planning Commission, to develop regulations to preserve the district's rural character, and promote a low-density, rural residential lifestyle.

On May 15, 2018, the City Council adopted Ordinance No. 2928 approving Code Amendment No. 758 amending Title 17 (Zoning) of the El Monte Municipal Code ("EMMC") Regarding Zoning and Land Use Requirements for the Rurban Homesteads Overlay District. The Code Amendment codified EMMC Chapter 17.37 Rurban Homesteads Overlay District. Pursuant to Chapter 17.37, the Rurban Homesteads Overlay District is established to preserve rural character, promote a low-density, rural residential lifestyle, and ensure continued availability of lots that allow animal keeping agricultural cultivation and retain the area's homestead heritage. It is the intent of the Rurban Homesteads Overlay District to protect areas for low-density, rural development by retaining large lots in a configuration that enables animal raising and keeping and to ensure that new residential development and alterations and additions to existing residences are compatible with the scale, mass and character of the rural neighborhood.

The development regulations for the RHOD require that each lot shall have a minimum lot area of 10,000 square feet and that every lot shall abut a public street for a distance of at least 60 feet. The maximum allowable height for a dwelling unit is 25 feet and one and one half (1.5) stories. Furthermore, flag lots and planned residential developments shall be prohibited.

According to the development standards of the EMMC, the 71,874 square foot Site has the potential to be subdivided into three (3) residential lots. Additionally, with the new State-mandated Accessory Dwelling Unit (ADU) laws, each lot can potentially develop one (1) main single-family dwelling unit, one (1) attached Junior ADU, and one (1) detached ADU, for a total of three (3) dwelling units per lot.

The Property Owner, Xue Chen has owned the property since 2014. The impetus behind the Moratorium and the amended RHOD regulations has limited the Property Owner's development opportunities for the site.

The City has been in discussions with the Property Owner on the acquisition of the Site for the preservation of the area's historical rural character. The Site has been vacant for six (6) years and the residential dwelling on the Site was demolished to prevent vagrancy. The City's acquisition of the Site for potential equestrian and agricultural improvements would preserve the purpose and intent of the RHOD.

### ***PROPERTY APPRAISAL AND PURCHASE PRICE***

The Property Owner's asking price is \$1,500,000 to recover the costs of the purchase price of the property in 2014 and to recuperate the costs incurred to design the site for subdivision. Staff presented the \$1,500,000 asking price to the City Council at Closed Session on September 17, 2019 in which the Council directed staff to order an appraisal for the fair market value of the property and to confirm the proposed \$1,500,000 purchase price.

Staff obtained the services of Integra Realty Resources to prepare a Fair Market Value Appraisal of the property. The Appraisal concluded that the fair market value of the property is \$1,575,000. Staff continued negotiations with the property owner. On January 14, 2020 under City Council Closed Session, staff presented the appraisal value of \$1,575,000 and the Property Owner's willingness to uphold the original asking price of \$1,500,000. At the Closed Session, the Council directed staff to return with a draft purchase and sale agreement for City Council's consideration under a regular agenda item at a future City Council meeting.

### ***FINDING OF GENERAL PLAN CONFORMITY***

According to the General Plan Cultural Resources Element, during the Depression, El Monte was chosen as the location of a unique federally funded program, an experimental subsistence program called Rurban Homesteads. The government purchased a walnut farm east of Peck road and subdivided it into 100 single-acre lots. Each lot offered a home with enough land to produce vegetables and raise livestock. The project was successful and repeated across the country. Some of the original Rurban Homesteads and the layout of the visionary development are still visible along the Wye and Cherrylee Drive in the northeast quadrant of the City.

In accordance with California Government Code Section 37361, a legislative body (the City of El Monte) may acquire property for the preservation or development of a historical landmark. The legislative body may also acquire property for development for recreational purposes and for development of facilities in connection therewith. The legislative body may provide for places, buildings, structures, works of art, and other objects, having a special character or special historical or aesthetic interest or value, special conditions or regulations for their protection, enhancement, perpetuation or use, which may include *appropriate and reasonable control of the use of neighboring private property* within public view. As stated in the General Plan Housing Element, the RHOD area is still used for equestrian purposes and visitors can occasionally see horseback

riders. Many streets in the northern section, including Cherrylee Drive are not improved with sidewalks, reflecting the more rural nature and history of the neighborhood.

Additionally, pursuant to California Government Code Section 65402, a local agency (the City of El Monte) shall not acquire real property for street, park or other public purposes, until such acquisition has been submitted to and reported upon by the planning agency having jurisdiction (the Planning Commission), as to conformity with the City's adopted general plan. Therefore, in order for the City to acquire the Site for equestrian and/or agricultural public purposes, it is necessary for the Planning Commission to find that the acquisition is in conformance with the 2011 Vision El Monte General Plan.

On March 10, 2020, the Planning Commission adopted Resolution No. 3567 (Attachment 3) finding that the proposed City acquisition of the Site for equestrian and/or agricultural open space is in conformance with the General Plan Cultural Resources Element. The Rurban Homesteads/Wye Street is designated as a Local Historic Resource and Urban Fabric/Landscape Features in the Cultural Resources Element.

*Urban Fabric/Traces.* El Monte has a rich agricultural past evident in structures, street patterns, and other forms.

1. Rurban Homesteads, a depression-era federal demonstration project with subsistence farming;
2. Pumpkin Fields, representing the bounty of the agricultural industry; and
3. Original period architecture

*CR-2.2 Historic Overlay Zones.* Assess the feasibility of creating historic overlay zones, as relevant, that contain elements of potential historic significance such as the Valley Mall, El Monte Theatre, Wye Street/Rurban Homestead area, and Medina Court.

To further the General Plan goals and policies stated above, the Cultural Resources Element states that, "...1920s homes and their original subsistence lots built during the Depression could be purchased and restored as a contemporary subsistence garden and linked to healthy eating and self reliance".

The City's acquisition of the Site would further the General Plan's goals and policies to preserve the historical area of the Rurban Homesteads Overlay District.

## **SUMMARY OF KEY ELEMENTS OF THE PURCHASE AND SALE AGREEMENT**

The draft PSA is attached to this staff report for reference. The following sections provide a summary of the elements of the draft PSA:

**Purchase Price:** \$1,500,000

**Opening of Escrow:** Within ten (10) City business days of the Effective Date (the date upon which this Agreement has been fully executed by both Xue Chen (“Seller”) and City of El Monte (“Buyer”).

**Closing Date:** May 18, 2020

### **FISCAL IMPACT**

There are no negative impacts to the General Fund. The Purchase Price of \$1,500,000 will be paid through Quimby and EB5 funds. Staff will request City Council approval for the use of the funds at a future City Council public hearing.

### **CEQA/ENVIRONMENTAL DETERMINATION**

Pursuant to the California Environmental Quality Act (CEQA) statutes and requirements, on March 10, 2020, the Planning Commission determined that the City’s acquisition of the Site for equestrian and/or agricultural open space is consistent with CEQA Section 15183 (Projects Consistent with a Community Plan, General Plan, or Zoning). The Rurban Homesteads/Wye Street is designated as a Local Historic Resource and Urban Fabric/Landscape Features in the Cultural Resources Element. Furthermore, the Cultural Resources Element encourages the purchase and restoration of the RHOD lots as a contemporary subsistence garden linked to healthy eating and self-reliance.

Therefore, the City’s acquisition of the Site for preservation of a Local Historic Resource is in conformance with the 2011 Vision El Monte General Plan Cultural Resources Element in which an Environmental Impact Report (State Clearing House #2008071012) was certified in June 2011. The future agricultural open space improvements would further the goals and policies of the General Plan.

### **FUTURE IMPROVEMENTS**

Prior to any equestrian and/or agricultural open space improvements, the project shall be assigned a Capital Improvement Project (CIP) number and shall undergo a separate project-specific review process, including public outreach and community meetings, and environmental analysis in compliance with CEQA.

### **CONCLUSION**

It is recommended that the City Council: 1) Receive a presentation from City staff regarding the proposed Purchase and Sale Agreement (PSA) and Joint Escrow

HONORABLE MAYOR AND CITY COUNCIL

March 18, 2020

PAGE 6

Instructions between the City of El Monte and Xue Chen of 12159 Cherrylee Drive; 2) Adopt the Resolution approving the PSA by and between the City of El Monte and Xue Chen; and 3) Authorize the City Manager and City Attorney to make any non-substantive minor modifications and execute the PSA.

Respectfully submitted,

ALMA K. MARTINEZ  
City Manager

BETTY DONAVANIK  
Community and Economic Development Director

Attachments:

1. Draft PSA
2. Resolution
3. Planning Commission Resolution No. 3567

DATE: MARCH 19, 2020
PRESENTED TO EL MONTE CITY COUNCIL
<input type="checkbox"/> APPROVED
<input type="checkbox"/> DENIED
<input type="checkbox"/> PULLED
<input type="checkbox"/> RECEIVED AND FILE
<input type="checkbox"/> CONTINUED
<input type="checkbox"/> REFERRED TO
CHIEF DEPUTY CITY CLERK

**ATTACHMENT 1**

**DRAFT PSA**

**2020**  
**PURCHASE AND SALE AGREEMENT**  
**AND JOINT ESCROW INSTRUCTIONS**

by and between

BETTY XUE CHEN, as Seller,

and

CITY OF EL MONTE,  
a California municipal corporation,

as Buyer,

dated as of

\_\_\_\_\_, 2020

with respect to:

12159 Cherrylee Drive  
El Monte, California

TABLE OF CONTENTS

	<u>Page</u>
1. Definitions.....	1
1.1 “Approval Notice” .....	1
1.2 “Assignment of Intangible Property” .....	1
1.3 “Buyer Party/Parties” .....	1
1.4 “Buyer’s Proforma Title Policy” .....	1
1.5 “Buyer’s Title Policy” .....	1
1.6 “City Council” .....	1
1.7 “Closing Date” .....	1
1.8 “Closing Documents” .....	1
1.9 “Closing”/“Close of Escrow” .....	1
1.10 “Conditional Approval Notice” .....	1
1.11 “Contract Period” .....	2
1.12 “Due Diligence Materials” .....	2
1.13 “Due Diligence Period” .....	2
1.14 “Effective Date” .....	2
1.15 “Environmental Laws” .....	2
1.16 “Escrow” .....	2
1.17 “Escrow Holder” .....	2
1.18 “FIRPTA Certificate” .....	2
1.19 “General Approval Notice” .....	2
1.20 “Grant Deed” .....	2
1.21 “Hazardous Substances” .....	2
1.22 “Improvements” .....	2

1.23	“Independent Consideration” .....	2
1.24	“Intangible Property” .....	2
1.25	“Leases” .....	3
1.26	“Permitted Exceptions” .....	3
1.27	“Personal Property” .....	3
1.28	“Preliminary Title Report” .....	3
1.29	“Property” .....	3
1.30	“Purchase Price” .....	3
1.31	“Reaffirmation Certificate” .....	3
1.32	“Real Property” .....	3
1.33	“Seller Party/Parties” .....	3
1.34	[RESERVED] .....	3
1.35	“Service Contracts” .....	3
1.36	“Title Company” .....	3
2.	Purchase and Sale. ....	4
3.	Purchase Price. ....	4
4.	Escrow.....	4
5.	Due Diligence Review and Period; Certain Buyer Contingencies. <i>[NOTE TO DRAFT - CITY TO DETERMINE SCOPE OF POST-EXECUTION DUE DILIGENCE REQUIRED.]</i> .....	4
5.1	Preliminary Title Report and Survey .....	4
5.2	Due Diligence Materials .....	4
5.3	Physical Inspections.....	5
5.4	Buyer Acquisition Financing .....	6
5.5	[RESERVED] .....	6
5.6	[RESERVED] .....	6

5.7	Approval and Conditional Approval Notices .....	6
6.	Conditions to the Close of Escrow.....	6
6.1	Precedent to Buyer’s Obligations .....	6
6.2	Conditions Precedent to Seller’s Obligations .....	7
7.	Deliveries to Title Company.....	8
7.1	By Seller.....	8
7.2	By Buyer .....	8
7.3	By Both Buyer and Seller .....	9
8.	“AS-IS” Purchase.....	9
9.	Closing Costs and Expenses; Prorations.....	9
9.1	Seller’s Closing Costs .....	9
9.2	Buyer’s Closing Costs.....	10
9.3	Other Costs.....	10
9.4	Prorations .....	10
10.	Disbursements and Other Actions by Title Company .....	10
10.1	Funds.....	10
10.2	Recording.....	10
10.3	Buyer’s Title Policy .....	10
10.4	Delivery of Documents to Buyer or Seller.....	10
11.	Joint Representations and Warranties .....	10
11.1	Authority.....	11
11.2	Actions .....	11
11.3	Due Execution.....	11
11.4	Valid and Binding.....	11

12.	Seller’s Additional Representations, Warranties, and Covenants .....	11
12.1	Pre-Closing Covenants.....	11
12.2	Third-Party Rights.....	12
12.3	Litigation.....	12
12.4	Non-Foreign Entity .....	12
12.5	Leases.....	12
12.6	Compliance. ....	12
12.7	Bankruptcy.....	12
12.8	Environmental.....	12
12.9	No Conflict.....	13
12.10	Personal Property .....	13
12.11	Reports and Due Diligence Items .....	13
12.12	OFAC/Patriot Act. ....	13
12.13	Subsequent Changes .....	13
12.14	Seller’s Knowledge.....	13
13.	Reserved.....	13
14.	Notices .....	13
15.	Brokers.....	14
16.	Default.....	14
16.1	Notice and Cure Period.....	14
16.2	Seller’s Default .....	15
16.3	Buyer’s Default.....	15
16.4	Limitation on Liability .....	16
17.	Assignment. ....	16
18.	Miscellaneous .....	16

18.1	Counterparts .....	16
18.2	Partial Invalidity.....	16
18.3	Possession of the Property .....	16
18.4	Waivers .....	16
18.5	Successors and Assigns.....	16
18.6	Entire Agreement.....	16
18.7	Time of Essence; Dates.....	16
18.8	Construction.....	16
18.9	Governing Law .....	17
18.10	Survival.....	17
18.11	Captions .....	17
18.12	Confidentiality .....	17
19.	Independent Consideration.....	17

Exhibits

- Exhibit A - Legal Description
- Exhibit B - Grant Deed
- Exhibit C - Assignment of Intangible Property
- Exhibit D - FIRPTA Affidavit
- Exhibit E - Reaffirmation Certificate

## PURCHASE AND SALE AGREEMENT AND JOINT ESCROW INSTRUCTIONS

This Purchase and Sale Agreement and Joint Escrow Instructions (“Agreement”) is dated as of \_\_\_\_\_, 2020 for purposes of reference by and between Betty Xue Chen, an individual (“Seller”), and CITY OF EL MONTE, a California municipal corporation (“Buyer”).

ON THE EFFECTIVE DATE, AS THIS TERM IS DEFINED IN SECTION 1.15, BUYER AND SELLER AGREE AS FOLLOWS:

1. Definitions. For the purposes of this Agreement the following terms will be defined as follows:
  - 1.1 “Approval Notice” means a written notice from Buyer to Seller indicating that City Council Approval (defined below) has been obtained, to the extent necessary, with respect to a particular contingency or Closing condition and Buyer has unconditionally approved the applicable contingency and/or Closing condition for the benefit of Buyer under this Agreement.
  - 1.2 “Assignment of Intangible Property” is defined in Section 7.
  - 1.3 “Buyer Party/Parties” shall collectively mean Buyer and its employees, agents, contractors, consultants, brokers and representatives.
  - 1.4 “Buyer’s Proforma Title Policy” is defined in Section 5.
  - 1.5 “Buyer’s Title Policy” is defined in Section 6.
  - 1.6 “City Council” shall mean the City Council of the City of El Monte, California. “City Council Approval” shall mean the City Council’s resolution and issuance of all approvals required under applicable laws and regulations to allow for, as applicable, the approval of any actions required by the Buyer hereunder, including the approval or waiver of any Closing conditions or other contingencies for the benefit of Buyer and the approval of Closing in accordance with the terms of this Agreement.
  - 1.7 “Closing Date” shall mean the date selected by Buyer after Buyer has issued its General Approval Notice to Seller which sets forth the specific date for the Closing Date verifying that all Closing conditions and other contingencies for the benefit of Buyer under this Agreement have been satisfied or waived by Buyer provided, however, that the Closing Date, but in no event later than May 18, 2020 (the “Outside Closing Date”).
  - 1.8 “Closing Documents” shall mean the documents and instruments delivered into Escrow by the parties as described in Section 7.
  - 1.9 “Closing”/“Close of Escrow” shall mean and refer to the consummation of the transactions described in this Agreement, and will be deemed to have occurred on that date when the Grant Deed is recorded in the official records of the county in which the Property is located. Closing and Close of Escrow are terms used interchangeably in this Agreement.
  - 1.10 “Conditional Approval Notice” means a written notice from Buyer to Seller indicating that Buyer’s approval of the applicable contingency and/or Closing condition for the benefit of Buyer under this Agreement has been approved by Buyer subject to the satisfaction by Seller of a particular matter set forth in such Conditional Approval Notice in Buyer’s sole discretion, of the applicable conditions/contingencies set forth in such written notice to Seller.

1.11 “Contract Period” shall mean and refer to the period from the Effective Date through and including the Closing Date.

1.12 “Due Diligence Materials” is defined in Section 5.3.

1.13 “Due Diligence Period” shall mean and refer to the period beginning from the Effective Date through April 30, 2020.

1.14 “Effective Date” shall mean and refer to, and shall be, the date upon which this Agreement has been fully executed by both Seller and Buyer.

1.15 “Environmental Laws” shall mean all federal, state and local laws, ordinances, rules and regulations now or hereafter in force, whether statutory or common law, as amended from time to time, and all federal and state court decisions, consent decrees and orders interpreting or enforcing any of the foregoing, in any way relating to or regulating human health or safety, or industrial hygiene or environmental conditions, or protection of the environment, or pollution or contamination of the air, soil, surface water or groundwater, and includes, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. § 9601, et seq., the Resource Conservation and Recovery Act, 42 U.S.C. § 6901, et seq., and the Clean Water Act, 33 U.S.C. § 1251, et seq.

1.16 “Escrow” is defined in Section 4.

1.17 “Escrow Holder” shall mean and refer to the First American Title Insurance Company (with its principal place of business at 777 S. Figueroa Street, Suite 400, Los Angeles, California 90017) or such other title insurance company as the Parties may hereafter jointly approve.

1.18 “FIRPTA Certificate” is defined in Section 6.

1.19 “General Approval Notice” shall mean the written notice from Buyer to Seller that Buyer has: (i) approved all applicable contingencies and Closing conditions for the benefit of Buyer and (ii) specifies a date for the Close of Escrow.

1.20 “Grant Deed” is defined in Section 6.

1.21 “Hazardous Substances” means any substance or material that is described as a toxic or hazardous substance, waste or material or a pollutant or contaminant, or words of similar import, in any of the Environmental Laws, and includes asbestos, petroleum (including crude oil or any fraction thereof, natural gas, natural gas liquids, liquefied natural gas, or synthetic gas usable for fuel, or any mixture thereof), petroleum-based products and petroleum additives and derived substances, lead-based paint, mold, fungi or bacterial matter, polychlorinated biphenyls, urea formaldehyde, radon gas, radioactive matter, medical waste, and chemicals which may cause cancer or reproductive toxicity.

1.22 “Improvements” shall collectively mean and refer to any buildings, structures, and other improvements located on the Real Property.

1.23 “Independent Consideration” is defined in Section 19.

1.24 “Intangible Property” shall collectively mean and refer to Seller’s interest in any and all intangible personal property arising out of or in connection with the ownership and/or operation of the Real Property and/or Improvements, including any easements, appurtenances, development rights, approvals, entitlements, mineral rights, water rights, and air rights that may exist, the right to use the

current names of the Real Property, all licenses, permits, and certificates of occupancy issued to Seller by federal, state or local municipal authorities relating to the use, maintenance, occupancy, and/or operation of the Property, and all warranties, guaranties and indemnities made or given by third parties with respect to the Property which are transferable to Buyer; excluding therefrom all Service Contracts and Leases.

1.25 “Leases” shall collectively mean and refer to all lease, license, use and/or occupancy agreements with respect to space in or at the Real Property and/or Improvements.

1.26 “Permitted Exceptions” shall mean: (i) the Title Company’s standard printed conditions, exceptions and exclusions contained in the standard form of ALTA Owner’s Policy of Title Insurance (2006); (ii) a lien for real property taxes and assessments not then delinquent (which are subject to proration under Section 9 hereof); (iii) any matters affecting the condition of title to the Property which are created by Buyer; and (iv) any matters of title respecting the Property which are expressly approved by Buyer pursuant to a Buyer Approval Notice given in accordance with Section 5 of this Agreement, but shall expressly exclude, any and all (a) deeds of trust, (b) mechanics’ liens not arising out of the activities of Buyer, (c) judgment liens, and (d) other monetary encumbrances and obligations other than the liens of non-delinquent real property taxes and assessments (collectively, “Monetary Liens”).

1.27 “Personal Property” shall collectively mean and refer to all of Seller’s right, title and interest, if any, in and to materials, supplies, equipment, fixtures, machinery, and other tangible personal property located now or hereafter at the Real Property.

1.28 “Preliminary Title Report” is defined in Section 5.2.

1.29 “Property” shall mean, collectively, the Real Property, the Intangible Property, and any Improvements.

1.30 “Purchase Price” is and shall be One Million Five Hundred Thousand Dollars (\$1,500,000.00) the Appraisal of Real Property report conducted by Integra Realty Resources with a date of value for the Property indicated as of November 26, 2019 indicating that such Purchase Price is not materially different than the fair market value of the Property as set forth in such appraisal report, subject to adjustment in accordance with Section 3.

1.31 “Reaffirmation Certificate” is defined in Section 7.

1.32 “Real Property” shall mean an approximately acre parcel of that certain real property located in the City of El Monte, County of Los Angeles, State of California and more particularly described in Exhibit A attached hereto.

1.33 “Seller Party/Parties” shall mean Seller and its employees, agents, members, owners, officers and directors.

1.34 Reserved.

1.35 “Service Contracts” shall collectively mean and refer to all service, equipment, maintenance and similar agreements, if any, entered into by Seller or any other Seller Party with respect to the Real Property, including all listing agreements or other agreements with any brokers or other agreements relating to the development or use of the Property.

1.36 “Title Company” shall mean and refer to WFG National Title Company of California (with its principal place of business at 700 N. Brand Boulevard, Suite 1100 Glendale, California 91203) or such other title insurance company as the Parties may jointly approve.

2. Purchase and Sale. Subject to the terms and conditions set forth in this Agreement, Seller agrees to sell to Buyer and Buyer agrees to buy from Seller, the Property, including all easements, hereditaments, entitlements and appurtenances thereto. In consideration of Seller’s sale of the Property to Buyer, Buyer will (a) subject to any prorations or credits set forth in this Agreement, pay to Seller the Purchase Price at the Closing, and (b) perform all of Buyer’s other obligations hereunder. The Closing shall occur on the Closing Date.

3. Purchase Price. Subject to the prorations, credits and adjustments set forth in Section 9 below, by no later than such time as is required by Title Company or otherwise in order for the Closing to occur on the Closing Date, Buyer will deposit into the Escrow the Purchase Price by confirmed wire transfer of currently available federal funds.

4. Escrow. Within ten (10) days following the Effective Date, Buyer and Seller will open an escrow (the “Escrow”) with the Title Company by delivering to the Title Company a fully executed copy of this Agreement. The purchase and sale of the Property will be completed through the Escrow. As part of their Closing deliveries, Buyer and Seller shall each submit additional supplemental escrow/closing instructions to the Title Company which are not in conflict with the terms of this Agreement. The terms and conditions set forth in this Agreement shall control if there is a conflict (i) between any printed escrow instructions provided by the Title Company and this Agreement, or (ii) between any supplemental escrow instructions provided by either party and this Agreement.

5. Due Diligence Review and Period; Certain Buyer Contingencies.

5.1 Preliminary Title Report and Survey. Within five (5) days following the Effective Date, Buyer shall obtain a preliminary title report (the “Preliminary Title Report”) prepared by the Title Company, together with copies of the documents described in such Preliminary Title Report, including vesting deeds, all listed exceptions to title and all documents referenced in the legal description of the Real Property. By the end of the Due Diligence Period, the Buyer will: (i) complete its review of the Preliminary Title Report, any survey ordered by Buyer, and all documents and information pertaining to either of them; (ii) endeavor to, working in good faith with Seller and the Title Company, obtain from the Title Company a proforma ALTA owner’s policy of title insurance (the “Buyer’s Proforma Title Policy”) for the Real Property, in such form as may be approved by Buyer in its sole discretion and including only the Permitted Exceptions; and (iii) deliver to Seller an Approval Notice or Conditional Approval Notice with respect to such matters. Buyer’s failure to deliver an Approval Notice or Conditional Approval Notice to Seller with respect to such matters by the end of the Due Diligence Period, shall be deemed that Buyer has disapproved the condition of title to the Real Property, this Agreement and the Escrow established hereunder shall automatically terminate, and the parties shall have no further obligations to one another hereunder except those that, by their terms, expressly survive the termination hereof.

5.2 Due Diligence Materials. Within five (5) business days following the Effective Date, Seller shall deliver to Buyer or make reasonably available to Buyer for inspecting, true, correct, and complete copies of all material documents, reports, and information in Seller’s actual possession relating to the ownership, use, development and operation of the Property, including without limitation (i) all permits, entitlements, warranties, licenses, and other approvals pertaining to the Real Property and Improvements, (ii) all reports, studies, and assessments with respect to the physical condition and/or operation of the Real Property and Improvements, including, without limitation, seismic reports, engineering reports,

surveys, environmental reports, traffic circulation, operating methods, flood control and drainage plans, design renderings, shop drawings, feasibility studies, documents relating to any special use, conforming use or zoning variance and all correspondence with governmental agencies and their personnel concerning the same, (iii) any correspondence with any governmental or quasi- governmental authority with respect to zoning, legal compliance, variances, investigations, and/or potential eminent domain actions, (iv) all maintenance records, property condition reports, work proposals and other documents with respect to the physical condition and state of repair of the Real Property and Improvements, (v) a list and description of any lawsuits, formal complaints or investigations which relate to the Real Property, the Improvements, and/or Seller's ownership, management or operation thereof, if any, and (vi) a property disclosure report containing the natural hazard disclosures, if any, which may be required under applicable laws including the California Public Resources Code, California Government Code, and/or California Health and Safety Code (collectively, the "Due Diligence Materials"); except in no event shall the Due Diligence Materials include nor shall Seller be required to provide to Buyer any information which is privileged or confidential. By the end of the Due Diligence Period, the Buyer will (i) complete its review of the Due Diligence Materials, and (ii) deliver to Seller an Approval Notice or Conditional Approval Notice with respect to such matters. Buyer's failure to deliver an Approval Notice or Conditional Approval Notice to Seller with respect to such matters by the end of the Due Diligence Period, shall be deemed that Buyer has disapproved the Due Diligence Materials and Property, this Agreement and the Escrow established hereunder shall automatically terminate, and the parties shall have no further obligations to one another hereunder except those that, by their terms, expressly survive the termination hereof.

5.3 Physical Inspections. During the Due Diligence Period, Buyer may make any and all inspections of the Property which it desires to conduct, including soils, seismic, and environmental reports and studies, and Seller agrees to reasonably cooperate with all such inspections as may be needed. All inspections will be at Buyer's sole cost and expense, and the persons or entities performing such tests and investigations will be properly licensed and qualified. Buyer will advise Seller in advance of the dates of all tests and investigations and will schedule all tests and investigations during normal business hours whenever feasible. Seller will have the right to have a representative of Seller accompany Buyer and Buyer's representatives, agents or designees while they are on the Property. Buyer shall not, and shall cause the other Buyer Parties to not unreasonably interfere with the Seller's use of the Property during the course of any entry or investigation/testing. Subject to the terms set forth below, the Seller shall have the right to approve, in Seller's reasonable discretion, any proposed borings or other intrusive sampling and testing. If the Closing does not occur, Buyer will restore any damage to the Property caused by Buyer's inspections at Buyer's sole cost and expense. Prior to any entry onto the Real Property to perform any such tests, Buyer and any consultant, contractor or other Buyer Party entering the Property shall provide Seller with proof of comprehensive general liability insurance in the amount of at least \$1,000,000 combined, single limit coverage, naming Seller as an additional insured, and covering all personal injury and property damage claims related to the Buyer or other Buyer Party's activities on the Real Property. Such insurance shall be issued by one or more reputable insurance companies licensed to do business in the State of California. Nothing in this paragraph shall be construed to as create any liability or responsibility for Buyer or any other Buyer Party with respect to the discovery of any condition, including without limitation any Hazardous Materials or other environmental condition, except only to the extent that any such condition was actually worsened as a direct result of the negligent or improper acts of Buyer or a Buyer Party in connection with an investigation. By the end of the Due Diligence Period, the Buyer will: (i) complete its review of the physical condition of the Real Property and Improvements; and (ii) deliver to Seller an Approval Notice or Conditional Approval Notice with respect to such matters. Buyer's failure to deliver an Approval Notice or Conditional Approval Notice to Seller with respect to such matters by the end of the Due Diligence Period, shall be deemed that Buyer has disapproved the physical condition of the Real Property and/or Improvements, this Agreement and

the Escrow established hereunder shall automatically terminate, and the parties shall have no further obligations to one another hereunder except those that, by their terms, expressly survive the termination hereof.

5.4 Buyer Acquisition Financing. Within thirty (30) days after the Effective Date (the “Acquisition Financing Outside Date”) the Buyer shall endeavor to secure acquisition financing for the purchase of Property (including payment of the Purchase Price and all other Buyer costs relating to this Agreement and the performance of Buyer’s obligations hereunder (the “Acquisition Financing”). The amount of Acquisition Financing and the terms and conditions relating thereto shall be subject to Buyer’s approval in its sole discretion, including City Council Approval to the extent required. By 5:00 pm California time on the Acquisition Financing Outside Date, the Buyer will deliver to Seller an Approval Notice or Conditional Approval Notice with respect to the Acquisition Financing. Buyer’s failure to deliver an Approval Notice or Conditional Approval Notice to Seller with respect to the Acquisition Financing by such date and time shall be deemed that Buyer has failed to obtain Acquisition Financing satisfactory to Buyer, this Agreement and the Escrow established hereunder shall automatically terminate, and the parties shall have no further obligations to one another hereunder except those that, by their terms, expressly survive the termination hereof.

5.5 Reserved.

5.6 Reserved.

5.7 Approval and Conditional Approval Notices. Without limiting any of the foregoing, or anything else in this Agreement, the parties hereby acknowledge and agree that Buyer’s delivery of an Approval Notice, Conditional Approval Notice, or General Approval Notice, or its failure or refusal to do so by the deadlines set forth in this Agreement, shall be subject to Buyer’s sole and exclusive discretion (including obtaining City Council Approval if applicable), except as expressly set forth otherwise herein, and Buyer’s failure to provide any such notice shall in no way be deemed a default by Buyer under this Agreement. If Buyer delivers a Conditional Approval Notice as to a particular matter, then Seller shall have until 5:00 p.m. California time on the date which is ten (10) days after receipt of such Conditional Approval Notice to satisfy the Buyer’s conditions set forth therein. If, by 5:00 p.m. California time on such date, Seller has not satisfied such conditions to Buyer’s sole and exclusive satisfaction, and Buyer does not issue an Approval Notice with respect to the subject matter set forth in such Conditional Approval Notice, then Buyer shall have the right at any time thereafter to terminate this Agreement with written notice to Seller, in which event the Escrow shall terminate and the parties shall have no further obligations to one another hereunder except those that by their terms expressly survive the termination hereof. Buyer may deliver an Approval Notice and/or a Conditional Approval Notice via fax or e-mail, so long as it also delivers such notices via one of the other methods approved by this Agreement.

## 6. Conditions to the Close of Escrow.

6.1 Precedent to Buyer’s Obligations. The Close of Escrow and Buyer’s obligations with respect to the transactions set forth in this Agreement are subject to the following conditions precedent:

(a) General Approval Notice and Other Approvals. Buyer shall have delivered a General Approval Notice to Seller and each of the other contingencies set forth in Section 5 above shall have been satisfied by the applicable date and time set forth in Section 5 above.

(b) Buyer’s Title Policy. Seller shall have caused all Monetary Liens to be removed from title on or before the Closing Date, and on the Closing Date the Title Company shall issue, or be unconditionally committed to issue to Buyer an ALTA Owner’s Policy of Title Insurance (2006) effective

as of the date and time of recording of the Grant Deed, with liability in an amount equal to the Purchase Price, showing title to the Property vested in Buyer subject only to the Permitted Exceptions, and otherwise in the form of the Buyer's Proforma Title Policy ("Buyer's Title Policy").

(c) Representations, Warranties and Covenants of Seller. Seller will have duly performed each and every agreement and covenant to be performed by Seller hereunder and Seller's representations and warranties set forth in this Agreement will be true and correct as of the Closing Date, as evidenced by the Reaffirmation Certificate to be delivered into Escrow by Seller at Closing.

(d) Seller's Deliveries. Seller will have delivered into Escrow all of the items described in Sections 7.1 and 7.3 below.

(e) Service Contracts. Seller shall have terminated all Service Contracts as of, or before the Closing Date.

(f) Leases. Seller shall have terminated any and all Leases with respect to any portion of the Real Property, as of, or before the Closing Date.

(g) Removal of Personal Property. Seller shall have caused all Personal Property belonging to Seller or any other party to be removed from the Property as of, or before the Closing Date.

(h) Legal Compliance; Litigation. There shall be no litigation or administrative agency or other governmental proceeding of any kind whatsoever, pending or threatened, which after Closing would materially and adversely affect the value of the Property or the ability of Buyer to develop and construct the parking garage on the Real Property as intended by Buyer.

(i) No Material Adverse Change. From and after the end of the Due Diligence Period, there shall not have occurred any events or changes to the physical, legal, environmental, or economic condition of the Property which have a material adverse impact on Buyer's ability to use, develop or operate the Property after Closing, in Buyer's sole discretion.

(j) City Council Approval. Buyer shall have obtained City Council Approval of all contingencies and Closing conditions for the benefit of Buyer, and, to the extent needed, City Council Approval to proceed with Closing.

The conditions set forth in this Section 6.1 are solely for the benefit of Buyer and may be waived only by Buyer with written notice to the Seller, and a copy of such notice to the Title Company (which copy may be sent via fax or email). If any of the foregoing conditions are not satisfied on or before the Closing Date, and Buyer has not waived the unsatisfied conditions, the Escrow and this Agreement and the Escrow established hereunder shall automatically terminate, and the parties shall have no further obligations to one another hereunder except those that, by their terms, expressly survive the termination hereof.

6.2 Conditions Precedent to Seller's Obligations. The Close of Escrow and Seller's obligations with respect to the transactions set forth in this Agreement are subject to the following conditions precedent:

(a) Approval Notices and Other Approvals. Buyer shall have delivered an Approval Notice to Seller and each of the other contingencies for Seller's benefit set forth in Section 5 above shall have been satisfied by the applicable date and time set forth in Section 5 above.

(b) Representations, Warranties and Covenants of Buyer. Buyer will have duly performed each and every agreement and covenant to be performed by Buyer hereunder and Buyer's representations and warranties set forth in this Agreement will be true and correct as of the Closing Date, as evidenced by the Reaffirmation Certificate to be delivered into Escrow by Buyer at the Closing.

(c) Buyer's Deliveries. Buyer will have delivered into Escrow the Purchase Price and the other items described in Sections 7.2 and 7.3 below.

The conditions set forth in this Section 6.2 are solely for the benefit of Seller and may be waived only by Seller with written notice to the Buyer, and a copy of such notice to the Title Company (which copy may be sent via fax or email). If any of the foregoing conditions are not satisfied on or before the Closing Date, and Seller has not waived the unsatisfied conditions, the Escrow and this Agreement shall automatically terminate, and the parties shall have no further obligations to one another hereunder except those that by their terms expressly survive the termination hereof.

## 7. Deliveries to Title Company.

7.1 By Seller. On or prior to the Closing Date, Seller will deliver or cause to be delivered to Title Company the following items:

(a) A Grant Deed for the Property in the form attached to this Agreement as Exhibit B, duly executed and acknowledged by Seller and in recordable form ("Grant Deed").

(b) Two (2) counterparts of an Assignment of Intangible Property in the form attached to this Agreement as Exhibit C, duly executed by Seller ("Assignment of Intangible Property") transferring Seller's interest in the Intangible Property to Buyer.

(c) A Transferor's Certificate of Non-Foreign Status attached to this Agreement as Exhibit D ("FIRPTA Certificate") duly executed by Seller.

(d) A duly executed California Form 593-C or other evidence sufficient to establish that Buyer is not required to withhold any portion of the Purchase Price from Seller pursuant to the California Revenue and Taxation Code (the "593-C").

(e) An Owner's/Seller's Affidavit and Indemnity as reasonably required by the Title Company in connection with the issuance of the Buyer's Title Policy.

(f) A written statement, in the form attached to this Agreement as Exhibit E, where Seller reaffirms that its representations and warranties contained in this Agreement remain true and correct as of the Closing Date ("Reaffirmation Certificate").

(g) Instructions to the Title Company to proceed with Closing in accordance with this Agreement.

7.2 By Buyer. On or prior to the Closing Date, Buyer will deliver or cause to be delivered to Title Company the following items:

(a) Subject to the closing costs and prorations allocated and computed in accordance with Section 9 below, the Purchase Price.

(b) Two (2) duly executed counterparts of the Assignment of Intangible Property.

(c) A Preliminary Change in Ownership Report in the form required by the County of Los Angeles.

(d) A Reaffirmation Certificate whereby Buyer reaffirms that its representations and warranties contained in this Agreement remain true and correct as of the Closing Date.

(e) Instructions to the Title Company to proceed with the Closing in accordance with this Agreement.

7.3 By Both Buyer and Seller. Buyer and Seller will each deposit such other documents and instruments consistent with this Agreement as are reasonably required by Title Company or otherwise required to close Escrow; provided no such documents or instruments may materially increase a party's obligations or materially decrease a party's rights under this Agreement. In addition, Seller and Buyer hereby designate Title Company as the "Reporting Person" for the transaction pursuant to Section 6045(e) of the Internal Revenue Code.

8. "AS-IS" Purchase. Buyer hereby agrees that, except as otherwise expressly provided in this Agreement and/or the Closing Documents, Seller disclaims the making of any representations or warranties, express or implied, regarding the Property or matters affecting the Property, including, without limitation, the physical condition of the Real Property and any Improvements, title to or the boundaries of the Real Property, soil condition, hazardous waste, toxic substance or other environmental matters, compliance with building, health, safety, land use and zoning laws, regulations and orders, or the ability to develop the Real Property for any purpose. Buyer acknowledges that it has not received from Seller any accounting, tax, legal, environmental, architectural, engineering or other advice with respect to this transaction or Buyer's proposed ownership, use, management or development of the Real Property and is relying solely upon the advice of its own accounting, tax, legal, environmental, architectural, engineering and other advisors. Subject to the Seller's covenants, representations or warranties set forth in this Agreement and the Closing Documents, Buyer shall purchase the Real Property in its "AS IS" condition as of the Closing Date, and Buyer expressly acknowledges that, in consideration of the agreements of Seller herein, and except as otherwise expressly set forth herein, SELLER MAKES NO WARRANTY OR REPRESENTATION, EXPRESS OR IMPLIED, OR ARISING BY OPERATION OF LAW, INCLUDING, BUT IN NO WAY LIMITED TO, ANY WARRANTY OF CONDITION, HABITABILITY, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OF THE PROPERTY, AND BUYER ASSUMES THE RISK THAT ADVERSE PHYSICAL, ENVIRONMENTAL, ECONOMIC OR LEGAL CONDITIONS MAY NOT HAVE BEEN REVEALED BY ANY INVESTIGATION OF THE REAL PROPERTY.

9. Closing Costs and Expenses; Prorations.

9.1 Seller's Closing Costs. Seller will pay and/or be responsible for:

- (a) all City and County documentary transfer taxes;
- (b) the premium for the Buyer's Title Policy, provided Seller shall only be obligated for the base premium which would be payable if Buyer was obtaining a CLTA form of Title Insurance Policy, with Buyer responsible for the additional costs of any ALTA policy and all endorsements requested or required by Buyer;
- (c) ½ of all escrow fees and costs; and
- (d) ½ of all fees and charges for recording the Grant Deed.

9.2 Buyer's Closing Costs. Buyer will pay and/or be responsible for:

- (a) ½ of all escrow fees and costs;
- (b) ½ of all fees and charges for recording the Grant Deed; and
- (c) the additional costs of any ALTA policy and all endorsements requested or required by Buyer.

9.3 Other Costs. Buyer and Seller will each pay all legal and professional fees and fees of other consultants incurred by Buyer and Seller, respectively. All other normal costs and expenses will be allocated between Buyer and Seller in accordance with the customary practice in Los Angeles County.

9.4 Prorations. At Closing, all real property taxes and assessments, water, sewer and utility charges, and other recurring expenses normal to the operation and maintenance of the Property shall be prorated as of midnight on the day before the Closing Date on the basis of a 360-day year (i.e. 30-day months). Seller shall be solely responsible for the payment of all supplemental taxes levied, assessed or otherwise accrued prior to the Closing Date. Notwithstanding any other provision of this Agreement to the contrary, if Buyer shall become liable after the Closing for payment of any property taxes or assessments, supplemental or otherwise, assessed against the Property for any period of time prior to the Closing Date, Seller shall pay the same to Buyer within thirty (30) days following written demand. The provisions of this paragraph shall survive the Closing.

10. Disbursements and Other Actions by Title Company. At the Close of Escrow, the Title Company will promptly undertake all of the following:

10.1 Funds. Disburse all funds deposited with the Title Company by Buyer in payment of the Purchase Price for the Property as follows:

- (a) deliver to Seller the Purchase Price, less the net amount of all items, costs and prorations chargeable to the account of Seller; and
- (b) disburse the remaining balance, if any, of the funds deposited by Buyer with the Title Company, back to Buyer, less any amounts chargeable to Buyer.

10.2 Recording. Cause the Grant Deed and REA to be recorded with the County Recorder for the County of Los Angeles and obtain a conformed copy thereof for distribution to Buyer.

10.3 Buyer's Title Policy. Issue the Buyer's Title Policy to Buyer.

10.4 Delivery of Documents to Buyer or Seller.

(a) Deliver to Buyer: (i) a conformed copy of the Grant Deed, (ii) one (1) original counterpart of the Assignment of Intangible Property, (iii) the FIRPTA Certificate, (iv) the 593-C, (v) Seller's Reaffirmation Certificate, and (vi) any other documents (or copies thereof) deposited into Escrow by Seller.

(b) Deliver to Seller: (i) one (1) original counterpart of the Assignment of Intangible Property, and (ii) any other documents (or copies thereof) deposited into Escrow by Buyer.

11. Joint Representations and Warranties. Seller represents and warrants to Buyer, and Buyer represents and warrants to Seller (subject to Buyer's obtaining City Council Closing Approval), as follows as of the Effective Date and again as of the Closing Date:

11.1 Authority. Such party has the legal power, right and authority to enter into this Agreement and the instruments referenced herein, and to consummate the transactions contemplated herein.

11.2 Actions. All requisite action (governmental, corporate, trust, partnership or otherwise) has been taken by such party in connection with the entering into of this Agreement, the instruments referenced herein, and the consummation of the transactions contemplated herein. No further consent of any partner, member, shareholder, creditor, investor, judicial or administrative body, governmental or quasi-governmental authority, or other party is required.

11.3 Due Execution. The individual(s) executing this Agreement and the instruments referenced herein on behalf of such party has/have the legal power, right, and actual authority to bind such party to the terms and conditions of this Agreement and all other instruments, documents and agreements contemplated or required in connection with the transactions set forth herein.

11.4 Valid and Binding. This Agreement and all other documents required for Closing this transaction, including the Closing Documents, are and will be valid, legally binding obligations of such party, and enforceable against such party in accordance with their terms, subject only to applicable bankruptcy, insolvency, reorganization, moratorium laws or similar laws or equitable principles affecting or limiting the rights of contracting parties generally.

The representations and warranties set forth in this Section 11 shall survive the Closing.

12. Seller's Additional Representations, Warranties, and Pre-Closing Covenants.

12.1 Pre-Closing Covenants

(a) Seller shall operate and maintain the Property in the same manner as Seller has been operating the Property as of the Effective Date, shall keep the Property free from waste and neglect, and shall maintain the Property in full compliance with all applicable laws and all easements, covenants and other encumbrances of record.

(b) Seller shall not enter into any contract or agreement unless such contracts or agreements are not binding on Buyer or the Property and can be terminated without penalty to Buyer by the Closing Date, without prior written consent of Buyer, in Buyer's sole discretion, and Seller shall, on or before the Closing Date, terminate all Service Contracts.

(c) Seller shall not enter into any Leases pertaining to the Property unless such Leases can be terminated without penalty to Buyer by the Closing Date, without prior written consent of Buyer, in Buyer's sole discretion, and Seller shall, on or before the Closing Date, terminate all Leases.

(d) Seller shall not convey any interest in the Property and shall not cause or allow any liens, encumbrances, covenants, conditions, easements, rights of way or similar matters to be recorded against any portion of the Real Property after the Effective Date, without prior written consent of Buyer, in Buyer's sole discretion.

(e) Seller shall not make any alterations or improvements to the Real Property, without prior written consent of Buyer, which consent will not be unreasonable, conditioned or delayed.

(f) Seller shall cause the Monetary Liens to be removed from title at or before Closing.

(g) Seller shall not cancel any hazard or liability insurance carried by Seller with respect to the Property or its operation, and shall maintain Seller's current insurance for the Property in full force and effect until Closing.

(h) If Seller has agreed in writing to correct any title issues, or to otherwise correct, cure or address any other issues raised by Buyer in any Conditional Approval Notice, then Seller shall perform all such actions and obligations which may be required in connection therewith, as and when agreed to, and in all events before the Closing Date.

12.2 Third-Party Rights. Neither Seller nor any other Seller Party has granted to any third party any option to purchase, right of first refusal, right of first offer or other similar right with respect to all or any portion of the Property that remains in effect, and neither Seller nor any other Seller Party has entered into any other contract for the sale of all or any portion of the Property with any third party that remains in effect. From and after the Effective Date, neither Seller nor any other Seller Party will enter into any contract for the sale or transfer of any right or interest of Seller or any Seller Party in any portion of the Property.

12.3 Litigation. Neither Seller nor any Seller Party is a party to any pending lawsuit or proceeding before a court or administrative agency which affects or could affect the Property or Seller's ability to enter into this Agreement or perform any of its obligations hereunder. Seller has not received written notice of, nor to Seller's knowledge, is there any litigation, arbitration or other legal or administrative suit, action, proceeding or investigation of any kind pending or threatened in writing against or involving Seller or any other Seller Party relating to the Property or any part thereof, including, but not limited to, any condemnation action relating to the Property or any part thereof.

12.4 Non-Foreign Entity. Seller is not a "foreign person" within the meaning of Section 1445(f)(3) of the Internal Revenue Code.

12.5 Leases. There are currently no Leases with respect to the Real Property or Improvements other than any such agreements delivered as part of the Due Diligence Materials, and Seller shall terminate all such Leases, at Seller's sole cost and expense, at or before the Closing Date.

12.6 Compliance. All building permits, certificates of occupancy, business licenses and other approvals required in connection with the construction, use and/or occupancy of the Real Property has been obtained and are in effect and in good standing. The Real Property, and the use and operation thereof, is in full compliance with all applicable municipal and other governmental laws, ordinances, regulations, codes, licenses, permits and authorizations. Seller has no knowledge of, and has not received any written notice from any governmental agency that the Real Property or any condition existing thereon or any present use thereof violates any law or regulations applicable thereto, and Seller shall notify Buyer promptly of any such proceedings, pending changes, or violations of which Seller receives notice of during the Contract Period.

12.7 Bankruptcy. Seller has not (i) made a general assignment for the benefit of creditors, (ii) filed any voluntary petition in bankruptcy or suffered the filing of any involuntary petition by its creditors, (iii) suffered the appointment of a receiver to take possession of all or substantially all of its assets, (iv) suffered the attachment or other judicial seizure of all or substantially all of its assets, or (v) admitted in writing its inability to pay its debts as they become due.

12.8 Environmental. Except as expressly set forth in any environmental reports included in the Due Diligence Materials provided to Buyer: (i) to Seller's actual knowledge there are no Hazardous Substances present at the Real Property in violation of any applicable Environmental Laws, (ii) neither Seller nor any other Seller Party, nor to the best of Seller's knowledge any third party, has used, manufactured, generated, treated, stored, disposed of, or released any Hazardous Substances on, under or about the Real Property, (iii) neither Seller nor any other Seller Party, nor, to the best of Seller's knowledge, any third party, has installed, used or removed any storage tank on, from or in connection with the Real Property, and (iv) to the best of Seller's knowledge there are no storage tanks or wells (whether existing or abandoned) located on, under or about the Real Property.

12.9 No Conflict. Neither the execution of this Agreement nor the performance of any of the terms or provisions hereof by Seller violates or conflicts in any respect with, or constitutes a default under, any judgment, order, injunction, decree, regulation or ruling of any court or governmental entity, the organizational documents of Seller, or any mortgage, deed of trust or indenture, any contract, or instrument to which Seller, any other Seller Party, or the Property is subject.

12.10 Personal Property. The Personal Property shall be removed from the Property at or before Closing by Seller, at Seller's sole cost and expense.

12.11 Reports and Due Diligence Items. Seller has delivered to Buyer true, correct and complete copies of all Due Diligence Materials, all of which were prepared by or for Seller in the ordinary course of its business in the same manner as it prepares or obtains such items for its other properties and are used and relied upon by Seller in connection with its ownership, management, development and operation of the Property.

12.12 OFAC/Patriot Act. Neither Seller nor any other Seller Party is included on the List of Specially Designated Nationals and Blocked Persons maintained by OFAC, does not reside in, and is not organized or chartered under the laws of (i) a jurisdiction that has been designated by the U.S. Secretary of the Treasury under Section 311 or 312 of the Patriot Act as warranting special measures due to money laundering concerns or (ii) any foreign country that has been designated as non-cooperative with international anti-money laundering principles or procedures by an intergovernmental group or organization, such as the Financial Action Task Force on Money Laundering, of which the United States is a member and with which designation the United States representative to the group or organization continues to concur.

12.13 Subsequent Changes. If Seller becomes aware of any fact or circumstance which would materially and adversely change one of its foregoing representations or warranties, then Seller shall promptly give written notice of such changed fact or circumstance to Buyer.

12.14 Seller's Knowledge. Whenever phrases such as "*to the best of Seller's knowledge*", "*to Seller's knowledge*", or "*Seller has no knowledge*" or similar phrases are used in the foregoing representations and warranties, they will be deemed to refer to matters within the actual current knowledge of James Acevedo, with reasonable and customary inquiry and investigation. Seller represents and warrants that such individual(s) is(are) the employee(s) of Seller most knowledgeable regarding the present operation and condition of the Property and the subject matters set forth above in this Section 12.

13. Reserved.

14. Notices. Except for those notices which, pursuant to the express terms of this Agreement may be sent via fax or email, all notices or other communications required or permitted hereunder must be in writing, and must be personally delivered (including by means of professional messenger service), sent

by overnight courier, or sent by registered or certified mail, postage prepaid, return receipt requested to the addresses set forth below, or such other addresses that a party may designate from time to time during the Contract Period with written notice to the other party. Notices will be sent as follows to:

Buyer: City of El Monte  
City Hall East  
11333 Valley Boulevard  
El Monte, California 91731  
Attn: Alma K. Martinez, City Manager  
Email: [amartinez@elmonteca.gov](mailto:amartinez@elmonteca.gov)  
Phone: (626) 580-2002

with a copy to: Olivarez Madruga Lemieux O'Neill, LLP  
11333 Valley Boulevard  
El Monte, California  
Attn: Joaquin Vazquez  
Email: [jvazquez@omlowlaw.com](mailto:jvazquez@omlowlaw.com)  
Phone: (213) 213-9898

Seller: Betty Xue Chen  
713 W. Duarte Road, Suite G561  
Arcadia, California 91007

with a copy to: Michael R. Hastings  
Direct Point Advisors, Inc.  
611 South Orchard Drive  
Burbank, CA 91506  
Phone: (818) 260-9005

Title Company: at the address specified in the definition thereof

15. Brokers. Seller represents and warrants to Buyer, and Buyer represents and warrants to Seller, that no broker or finder has been engaged by them, respectively, in connection with any of the transactions contemplated by this Agreement, or to its knowledge is in any way connected with any of such transactions. Buyer will indemnify, save harmless and defend Seller from any liability, cost, or expense arising out of or connected with any claim for any commission or compensation made by any person or entity claiming to have been retained by Buyer in connection with this transaction. Seller will indemnify, save harmless and defend Buyer from any liability, cost, or expense arising out of or connected with any claim for any commission or compensation made by any person or entity claiming to have been retained by Seller in connection with this transaction. This indemnity provision will survive the Closing or any earlier termination of this Agreement.

16. Default.

16.1 Notice and Cure Period. If either party fails to perform any of its obligations hereunder as and when required, or if one of the representations and warranties made by a party is discovered to be or becomes untrue during the Contract Period, then the non-defaulting party shall give written notice of such default to the defaulting party, with a copy to the Title Company (which copy may be sent via fax or

email), and the defaulting party shall have until the later of (i) the Closing Date and (ii) ten (10) business days after receipt of such notice to cure such default. A non-defaulting party may elect to waive any such default with written notice to both the defaulting party and the Title Company (which waiver may be sent via fax or email so long as an original hardcopy is concurrently delivered via one of the other methods provided for herein).

16.2 Seller's Default. If Seller is in default under this Agreement, beyond all applicable notice and cure periods, then Buyer shall be entitled to exercise all of its remedies which may be available under this Agreement and/or applicable laws, including without limitation a suit for specific performance. If the Closing does not occur by the Closing Date because of a Seller default, beyond the notice and cure periods set forth above, then, in addition to any remedies which may be available to Buyer under applicable laws, Buyer may cancel the Escrow and terminate this Agreement with written notice to Seller and a copy of such notice to the Title Company (which copy may be sent via fax or email). Upon the issuance of such notice, (i) this Agreement and the Escrow established hereunder shall terminate, (ii) the parties shall have no further obligations to one another hereunder except those that, by their terms, expressly survive the termination hereof, (iii) all costs of cancellation, if any, will be paid by the Seller, and (iv) Buyer shall be entitled to reimbursement of its reasonable out-of-pocket expenses incurred in connection with the transaction. Buyer's rights and Seller's obligations under subclause (v) above shall survive the termination of this Agreement.

16.3 Buyer's Default. If Buyer is in default under this Agreement, beyond all applicable notice and cure periods, then Seller shall be entitled to exercise all of its remedies which may be available under this Agreement and/or applicable laws. If the Closing does not occur by the Closing Date because of a Buyer default, beyond the notice and cure periods set forth above, then, in addition to any remedies which may be available to Seller under applicable laws, Seller may cancel the Escrow and terminate this Agreement with written notice to the Buyer, and a copy of such notice to the Title Company (which copy may be sent via fax or email). Upon the issuance of such notice, (i) this Agreement and the Escrow established hereunder shall terminate, (ii) the parties shall have no further obligations to one another hereunder except those that, by their terms, expressly survive the termination hereof, (iii) all costs of cancellation, if any, will be paid by the Buyer, and (iv) as Seller's sole and exclusive remedy under this Agreement, Seller hereby agreeing to waive any additional or other remedies it may have under applicable laws, Seller shall be entitled to an amount equal to FIFTY THOUSAND DOLLARS (\$50,000) (the "Liquidated Damage Amount") as liquidated damages.

***IN CONNECTION THEREWITH, THE PARTIES AGREE THAT SELLER'S ACTUAL DAMAGES AS A RESULT OF BUYER'S BREACH OF THIS AGREEMENT WOULD BE DIFFICULT OR IMPOSSIBLE TO DETERMINE, AND THE LIQUIDATED DAMAGE AMOUNT IS THE BEST ESTIMATE OF THE AMOUNT OF DAMAGES SELLER WOULD SUFFER AS A RESULT OF SUCH DEFAULT; PROVIDED, HOWEVER, THAT THIS PROVISION SHALL NOT LIMIT SELLER'S RIGHT TO OBTAIN REIMBURSEMENT FOR ATTORNEYS' FEES AND COSTS, OR WAIVE OR AFFECT BUYER'S INDEMNITY OBLIGATIONS AND SELLER'S RIGHTS TO THOSE INDEMNITY OBLIGATIONS UNDER THIS AGREEMENT. THE PAYMENT OF THE LIQUIDATED DAMAGE AMOUNT AS LIQUIDATED DAMAGES IS NOT INTENDED AS A FORFEITURE OR PENALTY WITHIN THE MEANING OF CALIFORNIA CIVIL CODE SECTIONS 3275 OR 3369, BUT IS INTENDED TO CONSTITUTE LIQUIDATED DAMAGES TO SELLER PURSUANT TO CALIFORNIA CIVIL CODE SECTIONS 1671, 1676 AND 1677. SELLER HEREBY WAIVES THE PROVISIONS OF CALIFORNIA CIVIL CODE SECTION 3389. THE PARTIES WITNESS THEIR AGREEMENT TO THIS LIQUIDATED DAMAGES PROVISION BY INITIALING THIS SECTION:***

*Seller:* \_\_\_\_\_

*Buyer:* \_\_\_\_\_

16.4 Limitation on Liability. Notwithstanding anything to the contrary herein, but excluding any tort claims, criminal action or fraud, Buyer hereby agrees that in no event or circumstance shall any of the shareholders, members, partners, employees, representatives, officers, directors, affiliated or related entities of Seller have any personal liability under this Agreement.

17. Assignment. Buyer will not assign this Agreement without first obtaining Seller's prior written consent thereto, which consent may be withheld by Seller in its reasonable discretion. Any attempted assignment without Seller's required prior written consent will, at Seller's option, be voidable and constitute a material breach of this Agreement.

18. Miscellaneous.

18.1 Counterparts. This Agreement may be executed in counterparts. Facsimile signatures or signatures sent via e-mail in ".pdf" format shall be valid so long as wet signature originals are delivered not later than three (3) business days after the delivery of the facsimile/e-mail signature version of the Agreement.

18.2 Partial Invalidity. If any term or provision of this Agreement will be deemed to be invalid or unenforceable to any extent, the remainder of this Agreement will not be affected thereby, and each remaining term and provision of this Agreement will be valid and be enforced to the fullest extent permitted by law.

18.3 Possession of the Property. Seller will deliver possession of the Property to Buyer upon the Close of Escrow, subject only to the rights of parties pursuant to the Permitted Exceptions.

18.4 Waivers. No waiver of any breach of any covenant or provision contained herein will be deemed a waiver of any preceding or succeeding breach thereof, or of any other covenant or provision contained herein. No extension of time for performance of any obligation or act will be deemed an extension of the time for performance of any other obligation or act except those of the waiving party, which will be extended by a period of time equal to the period of the delay.

18.5 Successors and Assigns. This Agreement is binding upon and inures to the benefit of the heirs, personal representatives, successors and permitted assigns of the parties hereto.

18.6 Entire Agreement. This Agreement (including all Exhibits attached hereto) constitute the entire agreement between the parties hereto with respect to the subject matter hereof and may not be modified except by an instrument in writing signed by the party to be charged.

18.7 Time of Essence; Dates. Seller and Buyer hereby acknowledge and agree that time is strictly of the essence with respect to each and every term, condition, obligation and provision hereof. If the Closing Date or any other date which serves as a deadline for performance hereunder occurs on a day other than a business day, then such date(s) shall automatically be deemed extended until the next occurring business day.

18.8 Construction. This Agreement has been prepared by Buyer and its professional advisors and reviewed by Seller and its professional advisers. Seller and Buyer and their respective advisors believe that this Agreement is the product of all of their efforts, that it expresses their agreement and that it should not be interpreted in favor of or against either Buyer or Seller, and the principle of law set forth

in California Civil Code §1654 (or its successor) that contracts are construed against the drafter shall not apply. The parties further agree that this Agreement will be construed to effectuate the normal and reasonable expectations of a sophisticated Seller and Buyer.

18.9 Governing Law. The parties hereto expressly agree that this Agreement will be governed by, interpreted under, and construed and enforced in accordance with the laws of the State of California.

18.10 Survival. All obligations of the parties contained herein which by their terms do not arise until after the Close of Escrow and any other provisions of this Agreement which by their terms survive the Close of Escrow, shall survive the Close of Escrow.

18.11 Captions. Section titles or captions contained in this Agreement are inserted only as a matter of convenience and for reference and in no way define, limit, extend or describe the scope of this Agreement or the intent of any provision hereof.

18.12 Confidentiality. Unless otherwise agreed to in writing by Seller and Buyer, each party will keep confidential all documents, financial statements, reports or other information provided to, or generated by the other party relating to the Property, including this Agreement and all Due Diligence Materials, and will not disclose any such information to any person other than (i) those employees and agents of Seller or Buyer with a need to know; (ii) those who are actively and directly participating in the evaluation of the Property and the negotiation and execution of this Agreement or financing of the purchase of the Property; (iii) governmental, administrative, regulatory or judicial authorities in the investigation of the compliance of the Property with applicable legal requirements; and (iv) pursuant to valid legal process or as may be required by law. Notwithstanding anything herein to the contrary, Buyer is legally mandated to provide records in response to a request for records under the California Public Records Act (Cal. Gov. Code section 6250 et seq.) to any and all parties that request such records, unless such information falls under an exemption provided for under California law. The disclosure of confidential information pursuant to Buyer's obligations under the Public Records Act shall not constitute a violation of this Agreement. The provisions of this paragraph will survive the termination of this Agreement other than by Closing.

19. Independent Consideration. Concurrent with its delivery of a fully executed copy of the Agreement, Buyer shall deliver to Seller in cash the sum of One Hundred and No/100 Dollars (\$100.00) (the "Independent Consideration") which amount has been bargained for and agreed to as consideration for Buyer's exclusive option to purchase the Property and the Buyer's Due Diligence Period provided herein, and for Seller's execution and delivery of the Agreement. The Independent Consideration is not part of the Purchase Price, is in addition to and independent of all other consideration provided in the Agreement, and is nonrefundable to Buyer in all events.

*Remainder of page intentionally left blank.  
Signatures on following page.*

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date and year first above written.

“SELLER”

Betty Xue Chen,  
an individual

By: \_\_\_\_\_

Date: \_\_\_\_\_

“BUYER”

CITY OF EL MONTE,  
a municipal corporation

By: \_\_\_\_\_  
Alma Martinez, City Manager

Date: \_\_\_\_\_

EXHIBIT A

*[Append Parcel Map]*

EXHIBIT B

RECORDING REQUESTED BY  
AND WHEN RECORDED MAIL  
DOCUMENT AND TAX STATEMENT TO:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

THIS SPACE ABOVE FOR RECORDER'S USE

DOCUMENTARY TRANSFER TAX is \$ \_\_\_\_\_  
\_\_\_\_ computed on full value of property conveyed; or  
\_\_\_\_ computed on full value less value of liens and encumbrances remaining at time of sale  
\_\_\_\_ Unincorporated area: \_\_\_\_ City of \_\_\_\_\_  
\_\_\_\_ Realty not sold.  
APN: \_\_\_\_\_

GRANT DEED

FOR VALUABLE CONSIDERATION, the receipt and sufficiency of which are hereby acknowledged, \_\_\_\_\_, a(n) \_\_\_\_\_ [state] \_\_\_\_\_ [entity type] ("Grantor"), hereby grants to \_\_\_\_\_, a(n) \_\_\_\_\_ [state] \_\_\_\_\_ [entity type], that certain real property in the City of \_\_\_\_\_, County of \_\_\_\_\_, State of California, legally described as follows:

See Exhibit 1 attached hereto and incorporated herein by this reference.

GRANTOR:

\_\_\_\_\_,  
a(n) \_\_\_\_\_ [state] \_\_\_\_\_ [entity type]

By: \_\_\_\_\_

Name: \_\_\_\_\_

Its: \_\_\_\_\_

Notary Acknowledgement - Grant Deed

*[Append Notary Form]*

Exhibit 1

*[Append legal description.]*

EXHIBIT C

ASSIGNMENT OF INTANGIBLE PROPERTY

THIS ASSIGNMENT OF INTANGIBLE PROPERTY (this "Assignment") is dated \_\_\_\_\_, 201\_\_ and is made and executed by \_\_\_\_\_, a(n) \_\_\_\_\_ [state] \_\_\_\_\_ [entity type] ("Seller"), with reference to the following facts:

WHEREAS, concurrently herewith, Seller is conveying to \_\_\_\_\_, a(n) \_\_\_\_\_ [state] \_\_\_\_\_ [entity type] ("Buyer"), in accordance with the terms of that certain Purchase and Sale Agreement and Joint Escrow Instructions dated \_\_\_\_\_, 201 (the "Agreement"), certain real property legally described on Exhibit 1 attached hereto and incorporated herein by this reference (the "Real Property"), as well as all improvements and betterments, if any, located thereon and expressly described in the Agreement (the "Improvements"); and

WHEREAS in accordance with the Agreement, Seller desires to assign, transfer and convey to Buyer, as of the Closing, all of Seller's interest in and to the Intangible Property (as defined in the Agreement).

NOW, THEREFORE, in consideration of the foregoing and other good and valuable consideration in hand paid by Buyer to Seller, the receipt and sufficiency of which are hereby acknowledged, Seller does hereby ASSIGN, TRANSFER and CONVEY to Buyer all of the Seller's interest in and to the Intangible Property.

THE INTANGIBLE PROPERTY IS ASSIGNED, TRANSFERRED AND CONVEYED TO BUYER SUBJECT TO ALL OF THE TERMS AND CONDITIONS OF THE AGREEMENT, AND SELLER IS NOT MAKING ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND OR NATURE WHATSOEVER, WHETHER EXPRESSED OR IMPLIED, WITH RESPECT TO THE INTANGIBLE PROPERTY, EXCEPT TO THE EXTENT EXPRESSLY SET FORTH IN THE AGREEMENT.

This Assignment shall be effective as of the Closing Date, as such term is defined in the Agreement. Capitalized terms not defined herein shall have the meanings given to them in the Agreement. The Seller represents that the signatory below has the full and complete authority to bind Seller to this Assignment and that no other consent is necessary or required in order for him/her to execute and deliver this Assignment on behalf of Seller.

Seller

\_\_\_\_\_,  
a(n) \_\_\_\_\_ [state] \_\_\_\_\_ [entity type]

By: \_\_\_\_\_

Name: \_\_\_\_\_

Its: \_\_\_\_\_

Exhibit 1

*[Append legal description.]*

EXHIBIT D

CERTIFICATE REGARDING FOREIGN INVESTMENT  
IN REAL PROPERTY TAX ACT

Section 1445 of the Internal Revenue Code provides that a transferee (purchaser) of a U.S. real property interest must withhold tax if the transferor (seller) is a foreign person. To inform the transferee (purchaser) that withholding of tax is not required upon the disposition of a U.S. real property interest by \_\_\_\_\_, a(n) \_\_\_\_\_ (“Transferor”) Transferor hereby certifies:

1. Transferor is not a foreign corporation, foreign partnership, foreign trust, or foreign estate (as those terms are defined in the Internal Revenue Code and Income Tax Regulations).

2. Transferor’s Federal Employer Identification Number is: \_\_\_\_\_

3. Transferor’s office address is:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

4. The address or description of the property which is the subject matter of the disposition is described in Exhibit 1 attached hereto.

5. Transferor is not a disregarded entity as defined in Section 1.445-2(b)(2)(iii).

Transferor understands that this certification may be disclosed to the Internal Revenue Service by transferee and that any false statement contained herein could be punished by fine, imprisonment, or both.

Transferor declares that it has examined this certification and to the best of its knowledge and belief, it is true, correct and complete, and further declares that the individual executing this certification on behalf of Transferor has full authority to do so.

\_\_\_\_\_,  
a(n) \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Its: \_\_\_\_\_

Exhibit 1

*[Append Legal Description.]*

EXHIBIT E

Reaffirmation Certificate

This Reaffirmation Certificate is made and delivered by \_\_\_\_\_, a(n) \_\_\_\_\_ [state] \_\_\_\_\_ [entity type] [(“Seller” OR “Buyer”)] with reference to that certain Purchase and Sale Agreement and Joint Escrow Instructions dated \_\_\_\_\_, 2019 ([as amended], the “Agreement”) entered into between [Seller OR Buyer] and \_\_\_\_\_, a(n) \_\_\_\_\_ [state] \_\_\_\_\_ [entity type].

[Seller OR Buyer] hereby restates and reaffirms its representations and warranties set forth in Section\_ of the Agreement with full force and effect as if set forth fully herein and made and delivered on the date hereof without any exception or qualification.

*[Seller OR Buyer]*

\_\_\_\_\_,  
a(n) \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Its: \_\_\_\_\_

Date: \_\_\_\_\_, 201\_\_

**ATTACHMENT 2**  
**RESOLUTION**

**RESOLUTION NO. \_\_\_\_\_**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL MONTE, CALIFORNIA APPROVING THE PURCHASE AND SALE AGREEMENT AND JOINT ESCROW INSTRUCTIONS BETWEEN THE CITY OF EL MONTE AND XUE CHEN OF 12159 CHERRYLEE DRIVE**

WHEREAS, pursuant to California Government Code Section 37361, a legislative body may acquire property for the preservation or development of a historical landmark. The legislative body may also acquire property for development for recreational purposes and for development of facilities in connection therewith;

WHEREAS, the real property located at 12159 Cherrylee Drive / APN No. 8541-019-051 (the "Site") is located within the Rurban Homesteads Overlay District (RHOD);

WHEREAS, the RHOD was established to preserve rural character, promote a low-density, rural residential lifestyle, and ensure continued availability of lots that allow animal keeping agricultural cultivation and retain the area's homestead heritage. It is the intent of the Rurban Homesteads Overlay District to protect areas for low-density, rural development by retaining large lots in a configuration that enables animal raising and keeping and to ensure that new residential development and alterations and additions to existing residences are compatible with the scale, mass and character of the rural neighborhood;

WHEREAS, the City has been in discussions with the property owner, Xue Chen on the acquisition of the Site for potential equestrian and agricultural improvements on the property to preserve the purpose and intent of the RHOD and the General Plan;

WHEREAS, pursuant to California Government Code Section 65402, before a local agency can acquire real property for street, park or other public purposes, the legislative planning body shall determine if the proposed real property acquisition conforms with the city's General Plan;

WHEREAS, the Rurban Homesteads/Wye Street is designated as a Local Historic Resource and Urban Fabric/Landscape Features in the General Plan Cultural Resources Element;

WHEREAS, on March 10, 2020, the El Monte Planning Commission adopted Resolution No. 3567 finding that the proposed City acquisition of the Site for futre equestrian and/or agricultural improvements is in conformance with the following General Plan Community Design Element and Circulation Element policies:

The Rurban Homesteads/Wye Street is designated as a Local Historic Resource and Urban Fabric/Landscape Features in the Cultural Resources Element.

Urban Fabric/Traces. El Monte has a rich agricultural past evident in structures, street patterns, and other forms.

1. Rurban Homesteads, a depression-era federal demonstration project with subsistence farming;
2. Pumpkin Fields, representing the bounty of the agricultural industry; and
3. Original period architecture

CR-2.2 Historic Overlay Zones. Assess the feasibility of creating historic overlay zones, as relevant, that contain elements of potential historic significance such as the Valley Mall, El Monte Theatre, Wye Street/Rurban Homestead area, and Medina Court.

WHEREAS, pursuant to the California Environmental Quality Act (CEQA) statutes and requirements, on March 10, 2020, the Planning Commission determined that the City's acquisition of the Site for historic preservation of the RHOD is consistent with CEQA Section 15183 (Projects Consistent with a Community Plan, General Plan, or Zoning). The Rurban Homesteads/Wye Street is designated as a Local Historic Resource and Urban Fabric/Landscape Features in the General Plan Cultural Resources Element. Furthermore, the Cultural Resources Element encourages the purchase and restoration of the RHOD lots as a contemporary subsistence garden linked to healthy eating and self reliance.

Therefore, the City's acquisition of the Site for preservation of a Local Historic Resource is in conformance with the 2011 Vision El Monte General Plan Cultural Resources Element in which an Environmental Impact Report (State Clearing House #2008071012) was certified in June 2011. The future agricultural open space improvements would further the goals and policies of the General Plan; and

WHEREAS, the CEQA determination is for the City's acquisition of the Site only. Prior to any equestrian and/or agricultural open space improvements, the project shall be assigned a Capital Improvement Project (CIP) number and shall undergo a separate project-specific review process, including environmental analysis in compliance with CEQA.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF EL MONTE, CALIFORNIA DOES HEREBY FIND, DETERMINE, AND RESOLVE, AS FOLLOWS:

SECTION 1. The City Council hereby approves the form of the Purchase and Sale Agreement and Joint Escrow Instructions for the acquisition of 12159 Cherrylee Drive.

SECTION 2. The City Manager and City Attorney are hereby authorized and directed to execute the Purchase and Sale Agreement and Joint Escrow Instructions on behalf of the City Council together with such technical and conforming changes to the text of the PSA as may be recommended by the City Attorney and approved by the City Manager.

SECTION 3. The City Manager is hereby authorized and directed to execute such ancillary documents and instruments as called for under the PSA on behalf of the City, as the Buyer, in order to complete the transaction as contemplated in the PSA.

SECTION 4. The City Clerk shall certify to the adoption of this Resolution which shall be effective upon its adoption.

PASSED APPROVED AND ADOPTED by the City Council of the City of El Monte at a special meeting on the 19<sup>th</sup> day of March, 2020.

\_\_\_\_\_  
Andre Quintero, Mayor

ATTEST:

\_\_\_\_\_  
Catherine A. Eredia, City Clerk

STATE OF CALIFORNIA            )  
COUNTY OF LOS ANGELES    ) SS:  
CITY OF EL MONTE             )

I, Catherine A. Eredia, City Clerk of the City of El Monte, do hereby certify that the above and foregoing Resolution No. \_\_\_\_\_ was passed, approved, and adopted by the City Council of the City of El Monte, signed by the Mayor and attested by the City Clerk at a special meeting of said City Council of the City of El Monte held on the 19<sup>th</sup> day of March, 2020, and that said Resolution was adopted by the following votes to wit:

AYES:

NOES:

ABSTAIN:

ABSENT:

\_\_\_\_\_  
Catherine A. Eredia, City Clerk

**ATTACHMENT 3**

**PLANNING COMMISSION RESOLUTION NO. 3567**

## RESOLUTION NO. 3567

### A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF EL MONTE, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, FINDING THE PROPOSED SITE ACQUISITION OF 12159 CHERRYLEE DRIVE, IN THE CITY OF EL MONTE, TO BE IN CONFORMANCE WITH THE GENERAL PLAN AND CONSISTENT WITH SECTION 15183 OF THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

WHEREAS, pursuant to California Government Code Section 37361, a legislative body may acquire property for the preservation or development of a historical landmark. The legislative body may also acquire property for development for recreational purposes and for development of facilities in connection therewith. The legislative body may provide for places, buildings, structures, works of art, and other objects, having a special character or special historical or aesthetic interest or value, special conditions or regulations for their protection, enhancement, perpetuation or use, which may include *appropriate and reasonable control of the use of neighboring private property* within public view;

WHEREAS, pursuant to California Government Code Section 65402, before a local agency can acquire real property for street, park or other public purposes, the legislative planning body shall determine if the proposed real property acquisition conforms with the city's General Plan; and

WHEREAS, the real property located at 12159 Cherrylee Drive / APN No. 8541-019-051 (the "Site") is located within the Rurban Homesteads Overlay District (RHOD);

WHEREAS, the RHOD was established to preserve rural character, promote a low-density, rural residential lifestyle, and ensure continued availability of lots that allow animal keeping agricultural cultivation and retain the area's homestead heritage. It is the intent of the Rurban Homesteads Overlay District to protect areas for low-density, rural development by retaining large lots in a configuration that enables animal raising and keeping and to ensure that new residential development and alterations and additions to existing residences are compatible with the scale, mass and character of the rural neighborhood;

WHEREAS, the Rurban Homesteads/Wye Street is designated as a Local Historic Resource and Urban Fabric/Landscape Features in the General Plan Cultural Resources Element;

WHEREAS, the City has been in discussions with the property owner, Xue Chen on the acquisition of the Site for potential equestrian and agricultural improvements on the property to preserve the purpose and intent of the RHOD;

WHEREAS, the City Council will take action on a Purchase and Sale Agreement with the Property Owner to acquire the Site at a future date; and

WHEREAS, the General Plan Conformity Report and CEQA action is for the City's acquisition of the Site only. Prior to any equestrian and/or agricultural open space improvements, the project shall be assigned a Capital Improvement Project (CIP) number and shall undergo a separate project-specific review process, including public outreach and community meetings, and environmental analysis in compliance with CEQA.

NOW, THEREFORE, THE PLANNING COMMISSION OF THE CITY OF EL MONTE, CALIFORNIA DOES HEREBY FIND, DETERMINE AND RESOLVE AS FOLLOWS:

**SECTION 1.** The facts set forth in the recitals above are true and correct and incorporated herein by reference.

**SECTION 2.** The City's acquisition of 12159 Cherrylee Drive for future equestrian and/or agricultural improvements is in compliance with the 2011 Vision El Monte General Plan Cultural Resources Element. This finding is made pursuant to the requirements of Government Code Section 65402 and is based upon the following:

A. The proposed real property acquisition is in conformance with the following General Plan Cultural Resources Element:

The Rurban Homesteads/Wye Street is designated as a Local Historic Resource and Urban Fabric/Landscape Features in the Cultural Resources Element.

I. Urban Fabric/Traces. *El Monte has a rich agricultural past evident in structures, street patterns, and other forms.*

1. *Rurban Homesteads, a depression-era federal demonstration project with subsistence farming;*
2. *Pumpkin Fields, representing the bounty of the agricultural industry; and*
3. *Original period architecture*

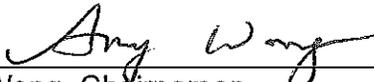
II. CR-2.2 Historic Overlay Zones. *Assess the feasibility of creating historic overlay zones, as relevant, that contain elements of potential historic significance such as the Valley Mall, El Monte Theatre, Wye Street/Rurban Homestead area, and Medina Court.*

To further the General Plan goals and policies stated above, the Cultural Resources Element states that, "...1920s homes and their original subsistence lots built during the Depression could be purchased and restored as a contemporary subsistence garden and linked to healthy eating and self reliance".

The City's acquisition of the Site would further the General Plan's goals and policies to preserve the historical area of the Rurban Homesteads Overlay District.

**SECTION 3.** In accordance with the requirements of the California Environmental Quality Act (CEQA) of 1970, and the CEQA Guidelines, as amended, the City's acquisition of the Site for historic preservation of the RHOD is consistent with CEQA Section 15183 (Projects Consistent with a Community Plan, General Plan, or Zoning). The City's acquisition of the Site for preservation of a Local Historic Resource is in conformance with the 2011 Vision El Monte General Plan Cultural Resources Element in which an Environmental Impact Report (State Clearing House #2008071012) was certified in June 2011. The future Capital Improvement Project will undergo a separate project-specific CEQA analysis.

**SECTION 4.** The Secretary of the Planning Commission of the City of El Monte shall certify to the adoption of this Resolution and shall cause a copy of the same to be forwarded to the City Council for its consideration.

  
\_\_\_\_\_  
Amy Wong, Chairperson

ATTEST:

  
\_\_\_\_\_  
Jason C. Mikaelian, Secretary  
El Monte City Planning Commission

STATE OF CALIFORNIA)

COUNTY OF LOS ANGELES) SS:

CITY OF EL MONTE)

I, Jason C. Mikaelian, Secretary of the Planning Commission of the City of El Monte, do hereby certify that the above and foregoing is a full, true, and correct copy of Resolution No. 3567 adopted by the Planning Commission of the City of El Monte, at a regular meeting by said Commission held on March 10, 2020, by the following votes to wit:

AYES: *WONG, PERANTA, MUNO, CRUZ*

NOES:

ABSTAIN:

ABSENT: *GONZALEZ*

  
\_\_\_\_\_  
Jason C. Mikaelian, Secretary  
El Monte City Planning Commission



**CITY OF EL MONTE**  
*CITY MANAGER'S OFFICE AND*  
*HUMAN RESOURCES / RISK MANAGEMENT DEPARTMENT*  
CITY COUNCIL AGENDA REPORT

CITY COUNCIL SPECIAL MEETING OF MARCH 19, 2020

March 18, 2020

The Honorable Mayor and City Council  
City of El Monte  
11333 Valley Boulevard  
El Monte, CA 91731

Honorable Mayor and City Council:

**APPROVAL OF SIDE LETTER #3 TO THE 2018-2020 MOU WITH THE EL MONTE POLICE OFFICERS' ASSOCIATION, FOR THE PERIOD COVERING JANUARY 1, 2020 THROUGH DECEMBER 31, 2022**

**IT IS RECOMMENDED THAT THE CITY COUNCIL:**

1. Approve Side Letter #3 with the El Monte Police Officers' Association ("POA"), covering the period of January 1, 2020 through December 31, 2022.

**PURPOSE/BACKGROUND**

The POA recently participated in discussions with the City to explore options that would assist the Police Department in containing or reducing its overtime costs.

Those discussions resulted in a new side letter (Side Letter #3) to the 2018-2020 POA MOU.

**DISCUSSION**

The key terms of the new side letter involve a temporary suspension of one of the minimum staffing provisions in exchange for changes related to detective assignments and certain additional or increased premium pays as outlined below:

1. Effective immediately (and retroactively, as applicable), temporary suspension of Section 11.07(C)(1), which excludes officers assigned to special assignments from counting toward minimum staffing levels. Instead, a maximum of two (2)

officers from special assignments may be utilized in a 24-hour period for the purpose of minimum staffing levels. This will significantly reduce overtime costs. The temporary suspension expires December 31, 2020.

2. Effective December 1, 2020, amend the minimum requirement for permanent Senior Police Detective/Investigator positions to be between eight (8) and twelve (12), and establish between four (4) to eight (8) rotational Senior Police Detective/Investigator positions, for a total combined minimum of sixteen (16) Senior Police Detective/Investigator positions. All vacancies shall be filled through a competitive selection process.
3. Effective January 1, 2021, double the fixed rates for Longevity Pay.
4. Effective January 1, 2021, convert Shooting Pay from a percentage-based pay to a fixed rate of two hundred dollars (\$200) per month.
5. Effective January 1, 2021, establish On-Call Pay for Crisis Negotiator Team members at a fixed rate of two hundred dollars (\$200) per month for a minimum of seven (7) members at any given time.
6. Effective January 1, 2021, establish Education Pay as follows:
  - Associate's Degree = \$100 per month
  - Bachelor's Degree = \$200 per month
  - Master's Degree = \$300 per month
7. Effective January 1, 2022, increase Education Pay as follows:
  - Associate's Degree = \$200 per month
  - Bachelor's Degree = \$400 per month
  - Master's Degree = \$600 per month

The proposed Side Letter #3 has been reviewed and approved as to form by the City Attorney's Office.

### **FISCAL IMPACT**

The approximate grand total estimated three-year net cost to the City of Side Letter #3 is \$1,250,000.

All new or additional costs would not begin to take effect until the middle of fiscal year 2020/2021.

The approximate total savings estimated as a result of the overtime reductions in fiscal year 2019/2020 is \$70,000.

**RECOMMENDATION**

City staff recommends that the City Council approve the new Side Letter #2 with the El Monte Police Officers' Association, covering the period of September 1, 2019 through December 31, 2022.

Respectfully submitted,

ALMA MARTINEZ  
City Manager

JOHN NGUYEN  
Acting Human Resources/Risk Management Director

Attachments:            1. POA Side Letter #3

DATE: March 19, 2020
PRESENTED TO EL MONTE CITY COUNCIL
<input type="checkbox"/> APPROVED
<input type="checkbox"/> DENIED
<input type="checkbox"/> PULLED
<input type="checkbox"/> RECEIVED AND FILE
<input type="checkbox"/> CONTINUED
<input type="checkbox"/> REFERRED TO
CHIEF DEPUTY CITY CLERK

**Side Letter Agreement #3**  
**Between the City of El Monte and the El Monte Police Officers' Association**

This Side Letter #3 to the current January 1, 2018 - December 31, 2020 Memorandum of Understanding (“MOU”) and Side Letters #1 and #2 between the El Monte Police Officers’ Association (“EMPOA”) and the City of El Monte (“City”), is entered into by and between the City and EMPOA. For purposes of this Side Letter #3, the capitalized term “Parties” shall be a collective reference to both the City and EMPOA, and the capitalized term “Party” shall refer to either the City or EMPOA interchangeably as appropriate.

WHEREAS, the Parties have agreed to restructure the Detective Bureau; and

WHEREAS, the Parties have agreed to temporarily authorize the Department to use certain specialty assignments to meet minimum staffing requirements to backfill dayshift patrol and that said temporary authorization shall not constitute a past practice or precedent; and

WHEREAS, the City has agreed to certain adjustments to special compensation pertaining to education pay, longevity pay, shooting pay, and special assignment pay; and

WHEREAS, the Parties have also agreed to amend certain provisions of the MOU pertaining to special assignments; and

WHEREAS, except as expressly set forth in this Side Letter #3, the Parties have agreed that all other terms and conditions of the 2018-2020 MOU and Side Letters #1 and #2 shall remain in full force and effect; and

WHEREAS, this Side Letter #3 was ratified by the El Monte City Council at its Special Meeting of March 19, 2020 as agenda item# \_\_\_\_\_.

NOW, THEREFORE, the Parties to agree as follows:

SECTION 1. The foregoing recitals are true and correct.

SECTION 2. Section 5.03(C)(5)(a) – (Permanent Assignments) of Article 5 is hereby amended in its entirety to state as follows:

The following assignments are designated by Police Management as permanent assignments:

- All Senior Police Detectives/Investigators (12)

Through attrition permanent Senior Police Detectives/Investigators will reduce from twelve (12) to eight (8). Beginning December 1, 2020, there shall be a total of sixteen (16) Senior Police Detective/Investigator positions, which shall be comprised of both permanent Senior Police Detectives/Investigators and

rotational Senior Police Detectives/Investigators. The number of permanent Senior Police Detectives/Investigators shall be between twelve (12) and (8), depending on when the positions are reduced through attrition, and at no time shall the number of permanent Senior Police Detectives/Investigators be less than eight (8). The number of rotational Senior Police Detectives/Investigators shall be the difference between the sixteen (16) Senior Police Detective/Investigator positions and the number of permanent Senior Police Detectives/Investigators.

Rotational Senior Police Detective/Investigator positions shall be for a minimum of three (3) years with the opportunity for extension at the Chief's discretion in one-year increments. Rotational Senior Police Detective/Investigators shall not be removed from their positions prior to the completion of the 3-year period or the completion of any 1-year extension except as outlined in Section 5.03(C)(5)(d).

These rotational positions shall not include other support positions (e.g. Gangs, Narcotics, Community Relations, or any other unit). Additionally, the Corporal(s) and Sergeant(s) in the Detective Bureau shall not count towards the minimum staffing of sixteen (16) Senior Police Detective/Investigator positions.

SECTION 3. Effective January 1, 2021, Section 5.04(G) (Longevity Pay) of Article 5 is hereby amended in its entirety to state as follows:

A longevity pay plan based upon service time in regular employment with the City of El Monte shall provide the following additional compensation above the eligible unit employee's base salary as follows:

<u>Employee Years of Service</u>	<u>Compensation</u>
After five (5) years (60 months)	\$150 per month
After ten (10) years (120 months)	\$200 per month
After fifteen (15) years (180 months)	\$250 per month
After twenty (20) years (240 months)	\$300 per month

The parties agree that Longevity Pay is special compensation and shall be reported as such to CalPERS, to the extent legally permissible, pursuant to Title 2 CCR, Section 571(a)(1).

SECTION 4. Effective January 1, 2021, Sections 5.04(P)(1) and 5.04(P)(2) (Shooting Pay) of Article 5 are hereby amended in their entirety to state as follows:

1. The City shall pay to each employee "Shooting Pay" of two hundred dollars (\$200) per month above the unit employee's base salary, provided:
  - a. The unit employee successfully qualified (duty weapon and shotgun) during each quarterly qualification period over the immediately preceding four quarters; and

- b. The unit employee had no preventable accidental firearm discharges for one year prior to the date of the monthly issuance of the shooting pay.

2. Quarterly Qualification Exceptions

A unit employee who does not shoot during a quarterly shooting qualification period will maintain his/her eligibility for Shooting Pay, provided the employee:

- a. Was on administrative leave;
- b. Assigned to a work or training location that was outside of Los Angeles County;
- c. Could not shoot due to injury;
- d. Could not shoot due to range closure; or
- e. Due to other legitimate circumstances as approved by Police Management.

SECTION 5. Effective January 1, 2021, Section 5.04(Q) (On-Call Pay: SWAT Members and Crisis Negotiation Team Members) of Article 5 is hereby amended in its entirety to state as follows:

1. Each member of the SWAT Team, including SWAT Medics and SWAT K9 Officers, shall be compensated two hundred dollars (\$200) each month for answering their phones while off-duty and being available to respond to call-outs. This compensation does not include compensation that the SWAT Team members are entitled to if they are ordered to report to work during their off-duty hours.
2. At least eighteen (18) members shall be assigned to the SWAT Team at any given time.
3. Each member of the Crisis Negotiator Team (CNT) shall be compensated two hundred dollars (\$200) each month for answering their phones while off-duty and being available to respond to call-outs. This compensation does not include compensation that the CNT members are entitled to if they are ordered to report to work during their off-duty hours.
4. At least seven (7) members shall be assigned to the CNT at any given time.

SECTION 6. Section 5.04(U) (Education Pay) of Article 5 is hereby added as follows:

1. Effective January 1, 2021, each unit employee who possesses an Associate's Degree from an accredited institution shall be compensated one hundred dollars (\$100) each month. Effective January 1, 2022, each unit employee who possesses an Associate's Degree from an accredited institution shall be compensated two hundred dollars (\$200) each month.
2. Effective January 1, 2021, each unit employee who possesses a Bachelor's

Degree from an accredited institution shall be compensated two hundred dollars (\$200) each month. Effective January 1, 2022, each unit employee who possesses a Bachelor's Degree from an accredited institution shall be compensated four hundred dollars (\$400) each month.

3. Effective January 1, 2021, each unit employee who possesses a Master's Degree or higher level degree from an accredited institution shall be compensated three hundred dollars (\$300) each month. Effective January 1, 2022, each unit employee who possesses a Master's Degree or higher level degree from an accredited institution shall be compensated six hundred dollars (\$600) each month.
4. Education pay shall not be cumulative. For example, a member with an Associate's Degree and a Bachelor's Degree is only eligible for four hundred dollars (\$400) each month not six hundred dollars (\$600) each month.
5. The parties agree that Education Pay is special compensation and shall be reported as such to CalPERS, to the extent legally permissible, pursuant to Title 2 CCR, Section 571(a)(2) – Educational Pay.

SECTION 7. Section 11.07(C)(1) of Article 11 is hereby temporarily not enforced until December 31, 2020 pursuant to the following understanding and conditions:

Section 11.07(C)(1) specifically provides that officers assigned to special assignments are not to be considered as field officers for minimum staffing purposes. The Department recently had difficulty fulfilling the minimum staffing requirements due to staffing shortages. In an effort to work with the Department and to decrease overtime costs, the EMPOA agreed to authorize the Department to utilize School Resource Officers, Community Relations Officers, Special Investigations Officers, Gang Enforcement Officers, and Traffic Officers to backfill dayshift patrol for minimum staffing purposes until December 31, 2020. A maximum of two (2) officers from units outside of patrol may be used in a 24-hour period for the purpose of minimum staffing. The use of Special Investigations Officers can be problematic due to obligations in assisting other agencies. Supervisors shall coordinate with the Special Investigations supervisor prior to using Special Investigations Officers for patrol minimum staffing.

This temporary suspension of Section 11.07(C)(1) is in no way intended, and shall in no way be construed to establish a precedent or past practice of the ability of the Department to temporarily reassign special assignments as field officers in this or any other matter, now or in the future.

SECTION 8. Section 11.07(I)(1) (Detective Assignments) of Article 11 is hereby amended in its entirety to state as follows:

1. When a vacancy occurs within any of the sixteen (16) Senior Police

Detective/Investigator assignments in the detective division, it shall be offered to unit employees pursuant to a competitive selection process, which includes at a minimum, the submission of an interest memo and resume by the employee and an interview of the employee.

2. Additional Detective Positions - In the event the department adds additional Senior police Detective/Investigator positions, assignments to those positions shall be made pursuant to the competitive selection process outlined in 11.07(I)(1) above.

3. Once assigned to a permanent Senior Police Detective/Investigator assignment, a unit employee may be removed from that assignment only for disciplinary just cause or by virtue of promotion, retirement or voluntary relinquishment of the position. Once assigned to a rotational Senior Police Detective/Investigator assignment, a unit employee may be removed from that assignment prior to the completion of the three-year duration or any one-year extensions only for disciplinary just cause or by virtue of promotion, retirement or voluntary relinquishment of the position.

IN WITNESS THEREOF the Parties have caused the duly authorized representatives to execute this Agreement this \_\_\_\_ day of \_\_\_\_\_,2020.

By: \_\_\_\_\_  
Adam Girgle, President  
El Monte Police Officers' Association

By: \_\_\_\_\_  
Alma Martinez  
City Manager